

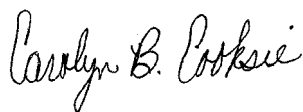
UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

**Guaranteed Loan Making and Servicing
2-FLP**

Amendment 19

Approved by: Deputy Administrator, Farm Loan Programs



Amendment Transmittal

A Reasons for Amendment

Subparagraph 20 C has been amended to clarify that SED is responsible for determining the most effective guaranteed loan making and servicing program delivery method.

Subparagraph 53 A has been amended to remove the first note.

Subparagraph 70 C has been added to address submitting applications outside PLP's normal trade area.

Subparagraph 181 B has been amended to add the website for obtaining a copy of USPAP.

Subparagraph 228 A has been amended to correct the example of a full year calculation for ADPB.

Subparagraph 247 A has been amended to provide that guarantee fees will not be charged on loans to farmers and ranchers involved in the direct beginning farmer downpayment program.

Subparagraph 267 B has been amended to change file review requirements for SEL's.

Subparagraph 312 A has been amended to add an example of unequal installments.

Subparagraph 360 F has been amended to add a reference to Exhibit 16.5.

Subparagraph 363 D has been amended to add references to Exhibit 18 and 20.

Exhibit 2 has been amended to add the definitions of "balloon installment" and "unequal installment".

Exhibit 16.5 has been added to provide a guide for loss claims and appeal decisions that must refer to FmHA Instructions 1980-A and 1980-B.

Exhibits 17 and 18 have been amended to remove a word.

Amendment Transmittal (Continued)

B Complete Section, Part, and Exhibit Reprint

This handbook has been converted to the revised format. Even though every page of the sections, parts, and exhibits being included in this amendment have not been amended, because the handbook has been converted, they are being released for reprint. The major changes are listed in subparagraph A.

Page Control Chart		
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Part 2 Guaranteed Farm Loan Programs**15 Program Purpose and Eligible Lenders****A Program Purpose**

The FSA Guaranteed Farm Loan Program:

- enables lenders to extend credit to family farm owners or operators who do not qualify for standard commercial loans
- benefits beginning farmers and family farmers experiencing financial distress, as well as lending institutions and the local community as a whole

Note: Farmers receive credit at reasonable terms to finance their current operations or to expand their business. Financial institutions receive additional loan business and servicing fees, as well as other benefits from the program.

- serves the local community by protecting family farmers and farm-related businesses.

B Requirements

Regulated lenders who have experience in agricultural lending are eligible to participate in the FSA Guaranteed Farm Loan Program. Lenders who have little or no experience with FSA-guaranteed loans are considered SEL's and must originate and service loans under SEL requirements.

Lenders who have a positive track record of participation in the program may participate in one of FSA's status lender programs. CLP and PLP are the 2 status lender programs. Once lenders are approved by FSA as a CLP or PLP lender, they may process loans under the reduced paperwork and supervision requirements afforded to the respective status lender program.

For more information on the different lender types, see Part 4.

C FSA-1980-38

The purpose of FSA-1980-38 is to:

- establish the lender as an approved participant in the FSA Guaranteed Farm Loan Program
- outline the terms and conditions for originating and servicing FSA-guaranteed loans.

15 Program Purpose and Eligible Lenders (Continued)

C FSA-1980-38 (Continued)

The lender is responsible for originating and servicing all guaranteed loans in their portfolio according to FSA-1980-38 that is valid at the time.

Example: If a lender has an approved SEL FSA-1980-38, they will originate and service loans under SEL requirements spelled out in 7 CFR Part 762 and this handbook.

If the same lender later applies for PLP status and is approved, a new PLP FSA-1980-38 will be executed. As long as the PLP FSA-1980-38 remains in effect, the lender will originate and service all FSA-guaranteed loans in their portfolio, including loans originated while the lender was SEL, under the conditions agreed to in the PLP FSA-1980-38.

For CLP and PLP lenders, FSA-1980-38 is valid for 5 years from the date of execution by SED or DAFLP. For SEL's, FSA-1980-38 is valid indefinitely from the time of execution by *-the Authorized Agency Official, unless otherwise terminated or replaced by FSA.--*

16 Eligible Borrowers

A Requirements

For specific information on borrower eligibility, see Part 8, Section 1.

In general, to qualify for an FSA guarantee, a loan applicant must be actively involved in the day-to-day management of a farm operation and must:

- be a citizen of the United States or legal resident alien
- have the legal capacity to incur the obligations of the loan
- be unable to obtain sufficient credit without a guarantee at reasonable rates and terms to finance the farming operation.

In addition to meeting the eligibility criteria, the loan applicant must:

- have a satisfactory credit history
- demonstrate repayment ability
- provide sufficient security for the loan.

17 Types of Guaranteed Loans

A OL's

OL's may be used to finance items needed for a successful farm operation. These items include the following:

- livestock
- farm equipment
- annual operating expenses
- family living expenses
- refinancing debts under certain conditions.

For more information on OL's, see Part 8, Sections 2 through 4 and Part 9.

B LOC's

LOC's are OL's for annual operating purposes. Loan funds may be advanced and repaid repeatedly (revolve) throughout the year.

For more information on LOC's, see Part 8, Sections 2 through 4 and Part 9.

C FO's

FO's may be used to:

- purchase farmland
- construct or repair buildings and other fixtures
- develop farmland to promote soil and water conservation
- refinance debt.

For more information on FO's, see Part 8, Sections 2 through 4 and Part 9.

* * *

18 IA Program

A Requirements

In certain situations, lenders may use the IA Program to assist a borrower in qualifying for an FSA-guaranteed loan. Under the IA Program, FSA will subsidize 4 percent of the interest rate on loans to qualifying borrowers.

For more information on the IA Program, see Part 9.

19 Full Faith and Credit Applicability and Exceptions (7 CFR 762.103)

A Full Faith and Credit Applicability

The loan guarantee constitutes an obligation supported by the full faith and credit of the United States.

B Exceptions for Fraud and Misrepresentation

The Agency may contest the guarantee only in cases of fraud or misrepresentation by a lender or holder, in which the lender or holder:

- **had actual knowledge of the fraud or misrepresentation at the time it became the lender or holder**
- **participated in or condoned the fraud or misrepresentation.**

C Exceptions for Lender Violations

The loan guarantee cannot be enforced by the lender, regardless of when the Agency discovers the violation, to the extent that the loss is a result of any of the following:

- **violation of usury laws**
- **negligent servicing**
- **failure to obtain the required security**
- **failure to use loan funds for purposes specifically approved by the Agency.**

19 Full Faith and Credit Applicability and Exceptions (7 CFR 762.103) (Continued)

D Effects of Full Faith and Credit With Holders

The guarantee and right to require purchase will be directly enforceable by the holder even if either of the following occurred:

- the loan guarantee is contestable based on the lender's fraud or misrepresentation
- the loan note guarantee is unenforceable by the lender based on a lender violation.

20 Responsibilities

A Authorized Agency Official Responsibilities

The Authorized Agency Official is responsible for:

- serving as the primary contact and decision maker for the FSA Guaranteed Farm Loan Program

•*--approving loans, up to thresholds specified in 1-FLP, paragraph 29--*

* * *

- providing training for lenders and prospective lenders
- monitoring lender's servicing actions

* * *

- processing loss claims for SED approval.

*--**Note:** Authorities that must be delegated are listed in 1-FLP, Exhibit 7.--*

B DD's Responsibilities

DD is responsible for:

- overseeing the Authorized Agency Official
- *--approving loan requests as outlined in 1-FLP, paragraph 29--*
- providing management and technical assistance to local servicing offices.

20 Responsibilities (Continued)**C SED's Responsibilities**

SED is responsible for:

- *--determining the most effective and efficient method of program delivery for making and servicing guaranteed loans--*
- overseeing the operations of all FSA offices within the State
- providing technical assistance as needed
- providing annual training for lenders and prospective lenders
- approving loan requests as outlined in 1-FLP, paragraph 29
- approving all loss claims before payment
- ensuring equitable treatment in processing loan applications as outlined in Part 6.

Funding allocations are made by SED, and at his or her discretion, funding allocations may be delegated to lower levels within the organization. SED approves CLP lenders and maintains files on their activity within the State. For PLP lenders, SED's must submit a recommendation to DAFLP regarding approval of PLP status. Once PLP status is approved, SED is responsible for ensuring that lender monitoring visits are conducted.

D DAFLP's Responsibilities

DAFLP is responsible for:

- managing FLP's on a national level
- developing policy
- monitoring the financial condition of status lenders
- approving lender requests for PLP status
- determining funding allocations
- ensuring consistent application of regulations and policies.

21-30 (Reserved)

Part 4 Lender Eligibility**46 Eligibility Requirements for SEL (7 CFR 762.105(b))****A Overview**

The basic level of participation in the FSA Guarantee Farm Loan Program is SEL. SEL must meet the eligibility criteria in this section to submit an application for a guarantee. If the lender does not meet the eligibility criteria to the satisfaction of FSA, the application will be denied.

B Capacity

A lender must have experience in making and servicing agricultural loans and have the capability to make and service the loan for which a guarantee is requested.

In reviewing the SEL request, the Authorized Agency Official shall consider FSA's prior experience with the lender in assessing whether or not they have the capability to make and service the loan. An important factor in reviewing the lender's capacity is their experience in agricultural lending. Experience in agricultural lending must be demonstrated for either the lender or the lender's personnel.

The lenders must not have losses or deficiencies in processing and servicing guaranteed loans above a level which would indicate an inability to properly process and service a guaranteed agricultural loan.

Previous problems with a lender, as evidenced in monitoring reports, excessive loss claims, or denial of loss claims, should be considered in this determination.

46 Eligibility Requirements for SEL (7 CFR 762.105(b)) (Continued)**C Examination and Supervision**

A lender must be subject to credit examination and supervision by an acceptable State or Federal regulatory agency.

Only regulated lenders that are subject to both examination and supervision may participate in the FSA Loan Guarantee Program. Examination will normally include a review of the lenders' asset quality, management practices, financial condition, and compliance with applicable laws and regulations. Supervision gives the regulator the authority to require that the lender make changes to ensure safety and soundness. Acceptable agencies include, but are not limited to, the following:

- FDIC
- Office of Comptroller of the Currency
- Office of Thrift Supervision
- Federal Reserve
- FCA
- National Credit Union Administration
- State banking commissions.

Lenders that are audited and subject to oversight by a State agency may or may not be examined and subject to supervision. Any questions concerning whether a lender meets this requirement should be addressed to DAFLP, Guaranteed Loan Making Branch.

46 Eligibility Requirements for SEL (7 CFR 762.105(b)) (Continued)

D Local Lender

The lender must maintain an office near enough to the collateral's location so it can properly and efficiently discharge its loan making and loan servicing responsibilities or use Agency approved agents, correspondents, branches, or other institutions or persons to provide expertise to assist in carrying out its responsibilities. The lender must be a local lender unless it does either of the following:

- **normally makes loans in the region or geographic location in which the loan applicant's operation being financed is located**
- **demonstrates specific expertise in making and servicing loans for the proposed operation.**

It is expected that the lender's business office will be located near the loans that it services. If the lender is lending out of its normal service area, FSA shall determine whether or not the loan can be appropriately serviced by the lender. Depending on the type of loan and the type of farming operation, it is important the lender have:

- local knowledge
- the ability to conduct inspections of collateral
- regular contact with the borrower.

E Participation

The lender, its officers, or agents must not be debarred or suspended from participation in Government contracts or programs and the lender must not be delinquent on a Government debt.

--Refer to 1-FLP, paragraph 43 for additional guidance about debarment and suspension.--

47 Approval Process for SEL

A FSA Review

The Authorized Agency Official shall review FSA-1980-25 in conjunction with the eligibility criteria in paragraph 46 to determine whether the lender is eligible to process the requested guarantee. This review will be done with the review of the proposed guaranteed loan.

B Approval

SEL approval is granted for the purpose of originating and servicing a guaranteed loan. SEL *-eligibility is evaluated with each guarantee application. If the lender continues to meet the requirements of paragraph 46, guarantee requests may continue to be processed. A new FSA-1980-38 is not required unless the most recent version of FSA-1980-38 has not been executed. See subparagraph 48 B.--*

48 Monitoring SEL

A Review of Lender Performance

SED shall determine how the file review requirement will be carried out. FSA shall review 40 percent of the lender's guaranteed loan files over the course of each year. Subparagraph 267 B lists the loans that will be given priority in the review and the items that should be inspected during the review process.

To the extent that deficiencies are discovered during the FSA monitoring review, the Authorized Agency Official shall inform the lender in writing and, if necessary, propose a timeframe for a reinspection of the deficiencies. Copies of any reviews and monitoring correspondence must be sent to DD and SED for major deficiencies.

48 Monitoring SEL (Continued)**B Operational File**

The Authorized Agency Official shall develop and maintain an operational file on each lender. This file will contain the following:

- information on the loans originated and serviced by the lender
- copies of the monitoring reviews conducted by FSA
- resolution of findings
- any correspondence between the lender and FSA
- copy of a current FSA-1980-38.

*--All SEL's must have a current FSA-1980-38 on file before issuing the guarantee.

Note: If a revised version of FSA-1980-38 has been issued, the lender must execute a new agreement before any new loan guarantees can be issued.--*

C Imposing Sanctions

In situations where the Authorized Agency Official is unable to resolve deficiencies with the lender, enforcement actions may be taken. Before the implementation of any enforcement action by FSA, the lender must be:

- notified in writing of the deficiencies
- given a specific timeframe in which to resolve the deficiencies
- warned of the sanctions that may be taken by FSA if the deficiencies are not resolved.

Examples of unresolved deficiencies may include the following:

- failure on the part of the lender to obtain an adequate appraisal
- failure to perfect a lien
- failure to adequately monitor the borrower or the collateral.

While any of these deficiencies may result in the denial or reduction of a loss claim to the lender, it is important to FSA that these issues be resolved as early as possible.

48 Monitoring SEL (Continued)**C Imposing Sanctions (Continued)**

The sanction imposed on the lender should be the most effective in resolving the deficiency. Examples of sanctions include the following:

- adjustment of loss claims
- increased monitoring visits
- increased reporting on corrective actions taken
- increased documentation for guarantee processing
- determination that the lender does not meet SEL standards and, therefore, is not eligible for future guaranteed loans.

In extreme cases, recommendations should be made to the National Office for suspension or debarment.

49 Eligibility Requirements for CLP (7 CFR 762.106)**A Overview**

CLP is a program that permits lenders with a proven track record in making and servicing guaranteed loans to operate under a streamlined origination and servicing process. While the CLP lender is still bound by FSA regulations and must use and maintain on file FSA-approved forms, information submitted to FSA for approval is minimized. SED is responsible for approving all CLP's in the State, based on information from the local offices and prior performance of the lender.

B Threshold Eligibility

The lender must **qualify as a Standard Eligible Lender under § 762.105.**

To be eligible to apply for certified lender status, the lender must meet the eligibility requirements of SEL as detailed in paragraph 46.

49 Eligibility Requirements for CLP (7 CFR 762.106) (Continued)**C Loan Production and Performance**

The lender must **have a lender loss rate not in excess of the maximum CLP Loss Rate established by the Agency and published periodically in a Federal Register Notice.**

This rate is set at 7.00 percent.

To be eligible for CLP, the lender must have a loss rate that does not exceed 7 percent.

The Agency may waive the loss rate criteria for those lenders whose loss rate was substantially affected by a disaster as defined in 7 CFR 1945, subpart A.

SED is granted the authority to waive this criteria on a bank-by-bank basis. The performance of other lenders under similar conditions should be considered before granting such a waiver.

[7 CFR 762.102] Loss rate equals the net amount of guaranteed OL, FO, and SW loss claims paid on loans made in the past 7 years divided by the total loan amount of the OL, FO, and SW loans made in the past 7 years.

If a lender applying for CLP status is or has recently been involved in a merger or acquisition, all loans and losses attributed to both lenders will be considered in the eligibility calculations.

The lender must continue to meet this requirement to hold CLP status. As part of the annual CLP review, the Authorized Agency Official shall ensure that the lender's losses remain below the maximum loss rate.

49 Eligibility Requirements for CLP (7 CFR 762.106) (Continued)**D Experience**

The lender must **have proven an ability to process and service Agency guaranteed loans by showing that the lender:**

- **submitted substantially complete and correct guaranteed loan applications**
- **serviced all guaranteed loans according to Agency regulations.**

In evaluating whether or not a lender meets these requirements, the State Office shall review historical monitoring reports on the lender. Recurring and/or unresolved issues about origination or servicing should be considered in the approval of CLP status for the lender. If CLP status is denied because of failure to meet this requirement, SED should recommend changes that the lender would need to implement to qualify for CLP status at a later date.

E Minimum Guaranteed Loans

The lender must **have made the minimum number of guaranteed OL, FO, or SW loans established by the Agency and published periodically in a Federal Register Notice.**

This is set at a minimum of 10 Agency guaranteed loans ever and five such loans in the past 2 years.

The lender must continue to meet this requirement to hold CLP status. As part of the CLP review, the Authorized Agency Official shall ensure that the lender has closed the required number of loans to retain CLP status.

Notes: The volume requirements will be published in a separate FR document.

--Multiple loans for 1 borrower will be counted separately. However, advances on LOC's do not count as separate loans.--

49 Eligibility Requirements for CLP (7 CFR 762.106) (Continued)**F Acceptable Level of Soundness**

The lender must **not be under any regulatory enforcement action such as a cease and desist order, written agreement, or an appointment of conservator or receiver, based on financial condition.**

In addition, the National Office monitors the bank rating services and other sources to determine the financial soundness of each lender participating in the Guaranteed Farm Loan Program. When a lender requests CLP status, SED shall contact LMD, Guaranteed Loan Branch to determine the lender's financial strength rating.

G Qualified Person

The lender must **designate a qualified person or persons to process and service Agency guaranteed loans for each of the lender offices which will process CLP loans. To be qualified, the person must meet the following conditions:**

- **have attended Agency sponsored training in the past 12 months or will attend training in the next 12 months**
- **agree to attend Agency sponsored training each year.**

The CLP application should include the resume or resumes of the person or persons qualified to process and service FSA-guaranteed loans. For a CLP lender, it is expected that this person will have experience in agricultural lending and experience in originating and servicing FSA-guaranteed loans.

H Acceptable Forms

The lender must **use forms acceptable to the Agency for processing, analyzing, securing, and servicing Agency guaranteed loans and lines of credit.**

49 Eligibility Requirements for CLP (7 CFR 762.106) (Continued)**I Approved Documents**

The lender must **submit to the Agency copies of financial statements, cash flow plans, budgets, promissory notes, analysis sheets, collateral control sheets, security agreements, and other forms to be used for farm loan processing and servicing.**

As part of the application, copies of these documents must be submitted to FSA for review of conformance with program requirements. The CLP lender should also inform FSA of any proposed change to these documents before implementing the change.

If any of these documents fail to comply with FSA requirements, SED shall recommend modifications to bring them into compliance.

50 Approval of Certified Lenders (7 CFR 762.106)**A Request for CLP Status**

Lenders who desire CLP status must prepare a written request addressing:

- **the States in which they desire to receive CLP status and their branch offices which they desire to be considered by the Agency for approval**
- **each item of the eligibility criteria for CLP approval in paragraph 49, as appropriate.**

See subparagraph B for what a request should contain.

The lender may include any additional supporting evidence or other information the lender believes would be helpful to the Agency in making its determination.

The lender must send its request to the Agency State Office for the State in which the lender's headquarters is located.

The lender must provide any additional information requested by the Agency to process a CLP request, if the lender continues with the approval process.

50 Approval of Certified Lenders (7 CFR 762.106) (Continued)**B Eligibility Criteria**

Before a lender is approved for CLP status, the lender must demonstrate compliance with the following eligibility criteria:

- provide evidence of being an eligible lender
- provide information to show that loan losses (net of recovery) do not exceed 7 percent
- have the capacity to process and service FSA-guaranteed loans
- certify that the person designated to process and service FSA-guaranteed loans has attended FSA loan processing and servicing training within the previous 12 months or will attend training within the next 12 months
- agree to send for annual training the designated person from each of the lender's offices responsible for processing guaranteed loans
- agree to use forms acceptable to FSA for processing, analyzing, securing, and servicing FSA-guaranteed loans/LOC's
- if not previously submitted, copies of financial statements, cash flow plans, loan agreements, analysis sheets, security agreements, and promissory notes should be submitted with the request for CLP status
- have closed a minimum of 10 FSA-guaranteed FO, SW, and OL loans/LOC's and 5 loans within the past 2 years.

C FSA Approval

The CLP-eligible lender will have a track record in FSA programs. SED may request that Authorized Agency Officials that the lender has worked with provide a recommendation for CLP status and any issues or concerns that should be considered by SED before granting CLP status. SED shall make a decision on CLP status within 30 calendar days of receipt of the lender's complete application.

50 Approval of Certified Lenders (7 CFR 762.106) (Continued)

C FSA Approval (Continued)

CLP status is granted on a statewide basis by SED. A separate FSA-1980-38 is required for each State. A lender may request CLP status for all branches within a State, or only the specific branches that are using the guaranteed program. **The Agency will determine which branches of the lender have the necessary experience and ability to participate in the CLP program based on the information submitted in the lender application and on Agency experience.** The branch offices for which CLP status is granted are listed on FSA-1980-38.

Lenders who meet the criteria will be granted CLP status for a period not to exceed 5 years. Once FSA-1980-38 is executed by the CLP lender and SED, the original will be kept in the State Office and copies will be sent to the lender and County Offices where the lender is expected to submit applications. In addition, the FSA-approved lender forms and the names of the lender's designated representatives will be sent to the affected County Offices.

D Renewal

CLP status will expire within a period not to exceed 5 years from the date the lender's agreement is executed, unless a new lender's agreement is executed.

Renewal of CLP status is not automatic. A lender must submit a written request for renewal of a lender's agreement with CLP status which includes information:

- **updating the material submitted in the initial application**
- **addressing any new criteria established by the Agency since the initial application.**

A request for renewal of CLP status must be submitted to FSA at least 60 calendar days before the expiration of the current FSA-1980-38.

CLP status will be renewed if the applicable eligibility criteria under this section are met, and no cause exists for denying renewal under subparagraph 51 C.

51 Monitoring CLP (7 CFR 762.106)**A Monitoring Reviews**

CLP lenders will provide information and access to records upon Agency request to permit the Agency to audit the lender for compliance with these regulations.

The Authorized Agency Official shall conduct a monitoring review on each CLP lender. This review shall be conducted according to Part 11. The Authorized Agency Official shall review at least 20 percent of CLP's files over the course of a year, according to the priorities in subparagraph 267 B.

B Operational File

Each Authorized Agency Official shall maintain an operational file for each CLP lender as in the SEL Program. For CLP, SED shall also maintain a file for their SED Internal Annual Review.

At least annually, SED shall collect and review information about the performance of each CLP lender, including monitoring reviews from all County Offices that monitor the lender. These monitoring reviews shall be used to determine whether CLP status should continue.

C Revoking CLP Status

In addition to the sanctions that may be imposed in subparagraph 48 C, the Agency may revoke the lender's CLP status at any time during the 5 year term for cause.

SED is granted this authority.

51 Monitoring CLP (7 CFR 762.106) (Continued)**C Revoking CLP Status (Continued)**

Any of the following instances constitute cause:

- **violation of the terms of the lender's agreement**
- **failure to maintain CLP eligibility criteria**
- **knowingly submitting false or misleading information to the Agency**
- **basing a request on information known to be false**
 - **deficiencies that indicate an inability to process or service Agency guaranteed farm loans**
 - **failure to correct cited deficiencies in loan documents upon notification by the Agency**
 - **failure to submit status reports in a timely manner**
 - **failure to use forms accepted by the Agency**
 - **failure to comply with the reimbursement requirements of subparagraph 376 A.**

D Reinstatement of CLP Status

A lender which has lost CLP status must be reconsidered for eligibility to continue as a Standard Eligible Lender in submitting loan guarantee requests. They may reapply for CLP status when the problem causing them to lose their status has been resolved.

If the reason for revoking CLP status was because of the deliberate submission of false information, the National Office must approve the request for reinstatement.

52 Eligibility Requirements for PLP (7 CFR 762.106)

A Overview

PLP is the top status that a lender can hold in the FSA Guaranteed Farm Loan Program. PLP
 *--was developed to recognize experienced lenders, who have demonstrated expertise in and understanding of agricultural lending and the FSA Guaranteed Farm Loan Program, by:

- streamlining submission requirements
- decreasing turnaround time on FSA actions
- allowing lenders to originate and service guaranteed loans as they would other loans in their portfolio.

To apply for PLP, lenders must outline the manner in which they intend to process and service FSA loan guarantees, based on their own underwriting and servicing policies. This CMS becomes the basis for approval decisions on guarantee applications. To request a guarantee, lenders need only to submit a 1-page application form and a loan narrative discussing the “5 C’s” of credit. The streamlined requirements of PLP result in a program that is nearly invisible to the lender.

PLP is beneficial to both lenders and FSA. The streamlined loan making and servicing processes allow lenders to reduce administrative costs and provide a quick turnaround time and a higher level of service to their customers. For FSA, the streamlined process allows DAFLP to devote more time to other critical areas of the loan programs.

PLP status is granted by DAFLP in the FSA National Office.--*

B Meeting CLP Eligibility Criteria

The lender **must meet the CLP eligibility criteria.**

The PLP lender must be a lender who has a track record with FSA-guaranteed loans. While the lender does not have to hold or have held CLP status, they must qualify for CLP status.

52 Eligibility Requirements for PLP (7 CFR 762.106) (Continued)

C CMS

The lender must **have a credit management system, satisfactory to the Agency, based on the following:**

- the lender's written credit policies and underwriting standards
- loan documentation requirements
- exceptions to policies
- analysis of new loan requests
- credit file management
- loan funds and collateral management system
- portfolio management
- loan reviews
- internal credit review process
- loan monitoring system
- the board of director's responsibilities.

***--Note:** An example CMS can be found on FSA's website at www.fsa.usda.gov/dafl/lender_stat.htm. Lenders may draw on language in the example, but each section must be amended based on the institution's commercial lending policy, organizational structure, and loan management practices.--*

Unlike SEL's and CLP lenders who originate and service guaranteed loans under FSA standards and guidance, PLP lenders will use their own CMS for originating and servicing FLP-guaranteed loans. The items that will be considered when reviewing CMS are in subparagraph D.

DAFLP shall determine what changes must be made to CMS to ensure that statutory and regulatory program requirements are met.

Once CMS is approved by FSA, it becomes the operational plan and a part of FSA-1980-38 between the lender and FSA for originating and servicing guaranteed loans. FSA shall monitor the lender by determining whether or not they are in compliance with the terms and conditions agreed to in CMS.

52 Eligibility Requirements for PLP (7 CFR 762.106) (Continued)

D PLP CMS Guidelines

The following are the guidelines for PLP CMS.

The lender should address each of the following issues, either with copies of documents such as board policies, procedures, or guidance memorandum, or, if no documented guidance exists, with an explanation of how the lender handles the issue. The lender should include copies of any forms and documents routinely used in loan application, underwriting, closing, monitoring, and servicing.

I. General Operations.

- A. Normal trade area, conditions under which the lender would lend outside of its trade area. Commodities or enterprises the lender typically lends for.
- B. The lending authority for loan officers that will be processing guaranteed loans; lending authority of a loan or executive committee, if any; and responsibilities of the board of directors in reviewing, ratifying, or approving loans.
- C. Process for handling policy exceptions.
- D. Guidelines for setting interest rates (pricing) and repayment terms. Fee structure and when fees can be waived.
- E. Internal credit review system. Who does it? How are the results reported? How often is it done? What is the scope? How are deficiencies followed up?
- F. Use of Agents, Consultants and Packagers. When are outside parties used?
- G. Organizational Structure.
- H. Qualifications of loan officers, either in general, or specifically for loan officers designated to work on FSA guaranteed loans.
- I. Method of monitoring compliance with FSA reporting requirements.

II. Loan Analysis / Underwriting.

A. Management Ability/Credit History Analysis.

- What credit references does the lender require?
- Does the lender have different standards for new customers or beginning farmers?
- What factors in an applicant's credit history would determine whether or not credit is granted?

52 Eligibility Requirements for PLP (7 CFR 762.106) (Continued)

D PLP CMS Guidelines (Continued)

- How will the lender determine issues such as previous participation in government lending programs and suspension or debarment from those programs?
- How will the lender investigate environmental issues that may arise in the application?

B. Capacity Analysis.

- What data is gathered and what ratios are calculated to determine repayment capacity?
- What are the lender's minimum capacity requirements for guaranteed and nonguaranteed loan approval?
- When and how are income statements evaluated?

C. Capital Analysis.

- What data is gathered and what ratios are calculated to analyze the borrower's capital position?
- What are the lender's minimum capital requirements for guaranteed and nonguaranteed loan approval?
- How current must the Financial Statement be? How many historical statements are required at loan origination? What supporting schedules are required?
- What is the consolidation and/or combination process for entities and when is it required?
- What debts are verified and how is the verification documented?

D. Collateral Analysis.

- How does the lender determine the loan is properly secured?
- What are the guidelines for obtaining and reviewing appraisals? How current must an appraisal be?
- How is ownership of assets verified?
- How are possible prior liens verified/determined?
- What are the qualifications of the chattel and real estate appraisers used by the lender?

E. Conditions.

- When does the lender place special conditions (such as reporting requirements) on the loan?
- What controls are used to assure loan proceeds are utilized as planned? How are loan proceeds disbursed? Are there limitations on the amount advanced in relation to the value of the collateral?

52 Eligibility Requirements for PLP (7 CFR 762.106) (Continued)

D PLP CMS Guidelines (Continued)

*--

III. Loan Servicing and Administration.

A. General Servicing.

- Describe your portfolio oversight. Discuss how risk is monitored on an ongoing basis and how often and what type of financial information is obtained based on borrower or loan type.
- Describe your procedure for advancing for loan or line of credit purposes, monitoring the use of loan funds, and verification of existence or acquisition of collateral.
- Describe your security monitoring, maintenance, inspection, and reassessment procedures. Describe your insurance requirements. Describe your policy regarding releasing collateral for trade, replacement, and sale.

B. Delinquencies.

- Describe any increased servicing procedures for distressed or “watch list” loans.
- Describe your procedures for reminder notices, default notification, personal contact, and preparation of servicing plans. Describe actions taken at various past due timeframes.
- Describe your policies on extensions, abeyance, deferral, and rescheduling and how the decision is documented.

C. Liquidation.

- Describe your procedures on acceleration, referral to legal counsel, foreclosure, replevin, and reporting to bank management.
- Describe your policies and procedures regarding protective advances, deeds in lieu of foreclosure, judgments, and release from liability.

D. Other.

- Describe your policies regarding release of security without consideration and release of co-signers, co-borrowers, or guarantors from liability.
- Describe any exceptions to loan policies or procedures and other information that is relevant to FSA-guaranteed loans.

--*

52 Eligibility Requirements for PLP (7 CFR 762.106) (Continued)**E FSA Experience**

The lender must **have made the minimum number of guaranteed OL, FO, or SW loans established by the Agency and published periodically in a Federal Register Notice.**

***--This is set at a minimum of 20 Agency guaranteed farm loans in the past five years.**

Note: The volume requirement is published in a separate FR document.--*

F Loss Rate

The lender must have a lender loss rate not in excess of the rate of the maximum PLP loss rate established by the Agency and published periodically in a Federal Register Notice.

This rate is set at 3 percent.

[7 CFR 762.102] Loss rate equals the net amount of guaranteed OL, FO, and SW loss claims paid on loans made in the past 7 years divided by the total loan amount of the OL, FO, and SW loans made in the past 7 years.

If a lender applying for PLP status is or has recently been involved in a merger or acquisition, all loans and losses attributed to both lenders will be considered in the eligibility calculations.

The Agency may waive the loss rate criteria for those lenders whose loss rate was substantially affected by a disaster as defined in 7 CFR 1945, subpart A.

This waiver may be granted only by DAFLP.

G Sound Loan Proposals

The lender must show a consistent practice of submitting applications for guaranteed loans containing accurate information supporting a sound loan proposal.

PLP lenders are expected to be experienced agricultural lenders who can demonstrate a history of consistently developing complete and accurate applications with minimal FSA involvement.

52 Eligibility Requirements for PLP (7 CFR 762.106) (Continued)

H Recurring Deficiencies

The lender must show a consistent practice of processing Agency guaranteed loans without recurring major or minor deficiencies.

In reviewing this requirement, DAFLP shall check previous monitoring reviews for major and minor recurring deficiencies. **[7 CFR 762.102] A major deficiency is one that directly affects the soundness of the loan.** Examples of major deficiencies may include the following:

- failure to obtain a complete appraisal report
- failure to perfect a lien
- failure to verify debts
- failure to obtain a credit report
- using unsound lending practices, such as unsupportable projections, inadequate collateral, or unsound assumptions.

[7 CFR 762.102] A minor deficiency violates Agency procedure, but does not affect the soundness of the loan. Minor deficiencies may include the following:

- nonsubstantive math errors
- missing forms
- delays in responding to FSA inquiries.

52 Eligibility Requirements for PLP (7 CFR 762.106) (Continued)

I Ability to Service Guaranteed Loans

The lender must demonstrate a consistent, above average ability to service guaranteed loans based on the following:

- **borrower supervision and assistance**
- **timely and effective servicing**
- **communication with the Agency.**

This criterion should be reviewed in the light of the lender's relationship to FSA and its borrowers. Three specific criteria are addressed.

- **Borrower Supervision and Assistance.** For PLP lenders, FSA expects that lenders will routinely work with borrowers to set goals and resolve deficiencies. For troubled borrowers, FSA would look:
 - for lender actions to communicate with the borrower regarding their complete credit and debt situation
 - to resolve financial difficulties with a view of the big picture.
- **Timely and Effective Servicing.** In assessing the PLP request, FSA shall look at how the lender has serviced its existing portfolio. Have problem loans been monitored closely and action taken promptly? Have loans been adequately protected in bankruptcy, litigation, or liquidation? Has the lender used good judgment in servicing actions, maintained control, and minimized losses to FSA?
- **Communication With FSA.** Because of the nature of PLP, good communication with FSA is critical. DAFLP shall look to SED and the Authorized Agency Official for information regarding FSA's past and current relationship with the lender. Is FSA informed of issues and potential losses at the early warning stage? Does the lender submit required reports on time? Are issues discovered in monitoring reviews quickly resolved and communicated to FSA?

52 Eligibility Requirements for PLP (7 CFR 762.106) (Continued)

J Qualified Person

The lender must **designate a person or persons, approved by the Agency, to process and service PLP loans.**

The lender should detail the minimum educational and experience requirements of loan officials or include the resume or resumes of the person or persons who are qualified to process and service FSA-guaranteed loans. For a PLP lender, it is expected that this person will have significant experience in agricultural lending and significant experience in originating and servicing FSA-guaranteed loans. To satisfy this requirement, the lender's application should address the experience the designated person has regarding the items in subparagraphs G and I.

Once PLP status is approved, the lender is responsible for maintaining staff who are adequately trained in originating and servicing guaranteed loans. The lender must notify FSA if the designated person representing the lender changes, but subsequent approval by FSA is not required.

53 Approval Requirements (7 CFR 762.106)

A Request for Approval

Both the lender and SED should develop the lender's request for approval. The lender should contact the State Office and inform SED of its intent to submit a PLP request. SED may provide additional guidance to the lender in developing its application. The request should be in the following 3 parts.

- Part I. The Lender's Application Letter demonstrating the lender meets the PLP criteria, excluding CMS.
- Part II. SED Comments and Recommendation. This part of the package will be developed from information gathered from the following sources:
 - County and District Offices where the lender proposes to do business and has done business in the past
 - in a multi-State request, the other FSA State Offices located in the lender's region

* * *

53 Approval Requirements (7 CFR 762.106) (Continued)**A Request for Approval (Continued)**

- State and District Office operational files, containing information on the lender's past performance
- the lender's PLP application package

Note: SED shall review the lender's proposed CMS to make a recommendation to DAFLP. However, SED will **not** set minimal underwriting, servicing, or liquidation standards, processes, or procedures for the lender. This is the lender's proposal and it need not, and probably will not, comply with requirements set for SEL and CLP lenders. Any areas considered inadequate by SED will be identified in the recommendation to DAFLP, but will not be communicated to the lender.

- reports indicating volume, loss, delinquencies, timeliness of lender reporting, etc.
- National Office for information on the lender's financial strength.
- Part III. A copy of the lender's proposed CMS. See subparagraph 52 D for the requirements of this part.

Parts I and III of the application should be submitted to SED, who shall:

- check the application for completeness
- review its contents
- make an approval recommendation
- forward the application to DAFLP for approval.

B DAFLP Review

DAFLP shall review the PLP request, contacting the lender if necessary, and make the approval decision.

53 Approval Requirements (7 CFR 762.106) (Continued)**C Conditions of Approval**

Lenders who meet the criteria will be granted PLP status for a period not to exceed 5 years.

PLP status will be conditioned on the lender carrying out its credit management system as proposed in its PLP status and any additional loan making or servicing requirements agreed to and documented in the PLP lender's agreement.

If the PLP lender's agreement does not specify any agreed upon process for a particular action, the PLP lender will act according to regulations governing CLP lenders.

Example: If the PLP lender does not state in its credit management system what historical financial information will be collected when developing applicant cash flow budgets, the CLP requirements in paragraph 153 will be followed.

D Renewal

PLP status will expire within a period not to exceed 5 years from the date the lender's agreement is executed, unless a new lender's agreement is executed.

Renewal of PLP status is not automatic. A lender must submit a written request for renewal of a lender's agreement with PLP status which includes information:

- **updating the material submitted in the initial application**
- **addressing any new criteria established by the Agency since the initial application.**

PLP status will be renewed if the applicable eligibility criteria under this section are met, and no due cause exists for denying renewal under subparagraph 54 C.

E Transfer of PLP Information to the Local Office

--SED shall provide a copy of PLP FSA-1980-38, including all attachments, to the--
Authorized Agency Official in each local office that will process loans for the specific PLP lender.

54 Monitoring the PLP Lender (7 CFR 762.106)**A Monitoring Reviews**

PLP lenders will provide information and access to records upon Agency request to permit the Agency to audit the lender for compliance with these regulations.

SED is responsible for ensuring that monitoring reviews are conducted on each PLP lender. This review shall be conducted according to Part 11 and shall examine the lender's approved CMS. The designated reviewer shall review * * * the lender's files according to the priorities in subparagraph 267 B.

B Maintaining an Operational File

Each Authorized Agency Official must develop and maintain an operational file as in the SEL Program. SED and DD shall also maintain a file developed as part of their Internal Annual Review.

At least annually, SED shall collect and review information on each PLP lender. SED shall examine monitoring reviews from the local office to determine the following:

- whether PLP status should continue
- whether the status should be terminated
- whether the renewal is denied for failure to comply with program requirements.

--The SED operational file shall also contain a copy of the original FSA-1980-38 and the-- lender's corresponding CMS.

54 Monitoring the PLP Lender (7 CFR 762.106) (Continued)**C Revoking PLP Status**

In addition to the sanctions that may be imposed in subparagraph 48 C, a PLP lender may, at the discretion of DAFLP, have their status revoked **at any time during the 5 year term for cause. Any of the following instances constitute cause for revoking or not renewing PLP status:**

- violation of the terms of the lender's agreement
- failure to maintain PLP eligibility criteria
- knowingly submitting false or misleading information to the Agency
- basing a request on information known to be false
- deficiencies that indicate an inability to process or service Agency guaranteed farm loans
- failure to correct cited deficiencies in loan documents upon notification by the Agency
- failure to submit status reports in a timely manner
- failure to use forms, or follow credit management systems accepted by the Agency
- failure to comply with the reimbursement requirements of subparagraph 376 A.

D Reinstatement of PLP Status

A lender which has lost PLP status must be reconsidered for eligibility to continue as a Standard Eligible Lender or as a CLP lender in submitting loan guarantee requests. They may reapply for PLP status when the problem causing them to lose their status has been resolved.

55 (Withdrawn--Amend. 4)

56-68 (Reserved)

Section 2 Preferred Lender Applications

70 Application Requirements for PLP Lenders (7 CFR 762.110)

A Application Requirements

A complete application for PLP lenders will consist of:

- **an application form** (FSA-1980-28)
 - *--Note:** If the lender submits FSA-1980-28 electronically, then the application shall be processed. However, the original, completed FSA-1980-28, with appropriate signatures, must be provided to the Agency before issuing the guarantee.--*
- **a loan narrative**
- **any other items agreed to during the approval of the PLP lender's status and contained in the PLP lender agreement.**

PLP lenders must certify that the required items, not submitted, are in their files. On a case-by-case basis, **the Agency may request additional information from any lender or review the lender's files as needed to make eligibility and approval decisions.** These requests shall be made only in situations when, because of the unique characteristics of the loan request, an eligibility or approval decision cannot be made without additional information.

FSA can conduct its environmental review in most cases without additional information from the lender. However, occasionally additional information is needed, and until this information is received, the application is not complete, and the 14-calendar-day timeframe does not start. Situations needing additional information often involve wetland determinations, potential historical or archaeological sites, or construction of major confinement livestock facilities. The review is FSA's responsibility to conduct. However, the information to complete this review is part of a complete application.

70 Application Requirements for PLP Lenders (7 CFR 762.110) (Continued)**B Loan Narrative**

FSA expects PLP lenders to include a discussion of the 5 “C’s” of credit; that is, character, capacity, capital, conditions, and collateral; in the narrative. The narrative prepared by PLP lenders should contain applicable information similar to subparagraph 69.5 C.

For many PLP lenders, the narrative will often contain the same information submitted to the lender’s loan committee. Since the Authorized Agency Official will rely on the narrative and application form for making the loan approval decision, it is important that the narrative cover any issues or questions that may arise during the evaluation process.

***--C Submitting Applications Outside Normal Trade Area**

PLP status will be approved for the lender’s normal trade area as defined in CMS. If a lender wants to make a guaranteed loan outside of this area, the lender should contact the State Office responsible for that area for guidance on where to submit the request for guarantee. On a case-by-case basis, SED may authorize the approval of guarantees outside the lender’s normal trade area if SED determines that the lender can adequately make and service the loan. If the lender wants to permanently expand its approved normal trade area, it will request an expansion through SED to DAFLP.--*

Subsection 3 Appraisals

181 General Requirements (7 CFR 762.127)

A Purpose

The Agency may require a lender to obtain an appraisal based on the type of security, loan size, and whether it is primary or additional security.

Appraisals are an integral part of the loan evaluation process. Additional security is collateral taken in excess of what is required to fully secure a loan.

This paragraph will discuss general appraisal requirements and the situations where appraisals are and are not required.

--See subparagraph 267 I for SED responsibilities regarding appraisals.--

B General Requirements

The requirements in this paragraph apply to all 3 types of lenders.

Appraisals are not part of a complete application and guarantees may be approved by FSA, subject to the lender obtaining an acceptable appraisal. The lender is responsible for obtaining an acceptable appraisal before loan closing and FSA issuing the loan guarantee. SEL's must provide FSA with a copy of the appraisal.

Each lender is responsible for using an appraiser who has qualifications for conducting the
*--type of appraisals required for the transaction. Real estate appraisals must be completed according to USPAP and any supplemental standards set forth by FSA according to USPAP.

A current copy of USPAP may be obtained from <http://www.appraisalfoundation.org>.--*

C Situations Where Appraisals Are Required

A current appraisal (not more than 12 months old) of primary chattel security is generally required on all loans.

An appraisal for loans or lines of credit for annual production purposes that are secured by crops is only required when a guarantee is requested late in the current production year and actual yields can be reasonably estimated.

Late in the season, crop appraisals should include an inspection of the crop to estimate yield based on the actual conditions.

A current real estate appraisal is required when real estate will be primary security. Agency officials may accept an appraisal that is not current if there have been no significant changes in the market or on the subject real estate and the appraisal was either completed within the past 12 months or updated by a qualified appraiser if not completed within the past 12 months.

181 General Requirements (7 CFR 762.127) (Continued)**C Situations Where Appraisals Are Required (Continued)**

An appraisal of real estate or chattel property that reflects the value of primary security at the time the guarantee is requested is required. If the market values have been fairly consistent since the date of the appraisal, an existing appraisal up to 12 months old may be acceptable. Rapidly changing collateral values will require a more recent appraisal.

Real estate appraisals over 12 months old may be acceptable if updated and if the market and subject have seen no significant changes. USPAP requires that changes be made by the original appraiser or someone from the same appraisal firm.

D Loan Servicing

Appraisals are required under the following loan servicing actions:

- transfer of security and assumption of debt
- debt writedown
- servicing FSA-1980-89's
- liquidation
- partial releases of security if determined necessary by FSA.

E Situations Where Appraisals Are Not Required

Notwithstanding other provisions of this section, an appraisal is not required in the following cases:

- **for any additional security**
- **for loans of \$50,000 or less if a strong equity position exists.**

Appraisals are not required on property to be taken as additional security that is clearly in excess of what is needed to fully secure the loan. The lender shall provide an estimate of *--value on FSA-1980-25 or FSA-1980-28, as applicable.--*

Appraisals may not be needed for loans of \$50,000 or less if there is significant equity in the collateral being pledged. The lender shall provide at least an estimate of value. The Authorized Agency Official shall request that an appraisal be completed if the equity position is not strong enough. This determination will be based on a review and evaluation of the amount of equity, type of collateral, and the strength of the loan applicant's balance sheet.

181 General Requirements (7 CFR 762.127) (Continued)**F Appraisal Costs**

Except for authorized liquidation expenses, the lender is responsible for all appraisal costs, which may be passed on to the borrower, or a transferee in the case of a transfer and assumption.

Appraisal costs may be deducted from security proceeds when part of authorized liquidation expenses.

182 Chattel Appraisals (7 CFR 762.127(c))**A Techniques**

The appraised value of chattel property will be based on public sales of the same, or similar, property in the market area. In the absence of such public sales, reputable publications reflecting market values may be used.

Appraisals on machinery, farm equipment, and livestock will be based on recent auction sales in the local area, where possible. However, if the number and frequency of sales is limited, it may be necessary to consult published prices.

B Reports

Appraisal reports may be on the Agency's Appraisal of Chattel Property form or on any other appraisal form containing at least the same information.

182 Chattel Appraisals (7 CFR 762.127(c)) (Continued)**C Appraiser Qualifications**

Chattel appraisals will be performed by appraisers who possess sufficient experience or training to establish market (not retail) values as determined by the Agency.

The important qualification for chattel appraisers is the ability to establish the value of equipment as reflected at auction sales. An appraiser's qualifications can be demonstrated through their years of experience, number of appraisals performed, and any relevant education or training.

183 Real Estate Appraisals (7 CFR 762.127(d))**A Techniques**

Real estate appraisals must be completed in accordance with the Uniform Standards of Professional Appraisal Practices.

Appraisals, regardless of the size of the transaction, must be completed according to USPAP. This refers to the development of the appraisal as well as the report format.

B Reports

Appraisals may be either a complete or limited appraisal provided in a self-contained or summary format. Restricted reports as defined in the Uniform Standards of Professional Appraisal Practices are not acceptable.

Appraisal development can be either complete or limited. Limited appraisals permit limited departure from certain USPAP standards. An example might be not using 1 of the approaches to value, if deemed unnecessary or not representative. With a limited appraisal, the appraiser must disclose the departure and have determined that the departure will not tend to mislead or confuse.

The format of the appraisal report may be either a Self-Contained or Summary. The Self-Contained Report contains all of the information significant to the property. A Summary Report contains the same information as the Self-Contained Report, but it is presented in less detail. Restricted Reports are normally only for internal use, may be simply a letter of value, have a limited amount of information, and are not acceptable for guarantee requests.

183 Real Estate Appraisals (7 CFR 762.127(d)) (Continued)**C Appraiser Qualifications**

On loan transactions of \$250,000 or less, the lender must demonstrate to the Agency's satisfaction that the appraiser possesses sufficient experience or training to estimate the market values of agricultural property.

An appraiser's qualifications can be demonstrated through their years of experience, number of appraisals performed, and any relevant education or training. For appraisers not certified by a State licensing body, the lender must submit the appraiser's resume to the Authorized Agency Official for review and approval.

On loan transactions greater than \$250,000, which includes principal plus accrued interest through the closing date, the appraisal must be completed by a state certified general appraiser. A loan transaction is defined as any loan approval or servicing action.

184-194 (Reserved)

228 Annual Request for IA Payment or Continuation (7 CFR 762.150) (Continued)

A Request for IA Payment and Renewal (Continued)

The following is an example of a full year calculation for ADPB.

Date	Number of Days	Principal Balance	Total
January 1 - April 15	*--104	\$25,000	\$2,600,000
April 16 - July 15	91	\$20,000	\$1,820,000
July 16 - September 15	62	\$15,000	\$930,000
September 16 - January 1	108	\$10,000	\$1,080,000
Total	365		\$6,430,000

$\$6,430,000 \div 365 = \$17,616.44$ ADPB for a full year.--*

- The lender can use interest basis (360, 365, 360/365) as indicated by the promissory note for calculating interest for the borrower. Some methods result in a slightly higher interest payment by the borrower; however, this is irrelevant to the amount FSA is allowed to pay, which is fixed by law at 4 percent.
- An interest assistance claim submitted with interest accrual based on 360 and then multiplied by 365 is not acceptable.
- If a loan is closed on a 365-calendar-day basis, interest that accrues on February 29 is not recognized by the finance office computer system and will not be paid.
- GLS does not count the first day of the claim period. The ending day of a claim period becomes the first day on the next claim period.

228 Annual Request for IA Payment or Continuation (7 CFR 762.150) (Continued)

A Request for IA Payment and Renewal (Continued)

*--Interest assistance will be calculated and paid according to the formulas indicated in the following table.

Full Year	
ADPB x 4 percent	
Note: Interest basis is not an issue.	
Example: \$100,000 x 4 percent = \$4,000	
Partial Year (360-Day Base)	
ADPB x 4 percent x [(number of months in the claim period x 30 calendar days) + additional days in excess of a month] ÷ 360	
Note: Convert all months to 30 calendar days. The system does not count the first day of the claim period. The ending day of a claim period becomes the first day on the next claim period.	
Example: Claim period is March 1 through June 5 (3 months x 30 calendar days = 90 + 5 - 1 = 94 calendar days). \$100,000 x 4 percent = \$4,000 x 94 calendar days ÷ 360 = \$1,044.44 interest assistance payment.	
Partial Year (365-Day Base)	
ADPB x 4 percent x actual days in the claim period ÷ 365.	
Note: Count actual days in the month. The system does not count the first day of the claim period. The ending day of a claim period becomes the first day on the next claim period.	
Example: Claim period is March 1 through June 5, which equals 97 - 1 calendar days. \$100,000 x 4 percent = \$4,000 x 96 calendar days ÷ 365 = \$1,052.05 interest assistance payment.	

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246 Lender's Response to FSA-1980-15 (7 CFR 762.130(c)) (Continued)**B Executing and Extending FSA-1980-15**

Once the lender executes FSA-1980-15, it must be returned to FSA for final processing. Once both parties execute the document, the lender may proceed to close the loan within the timeframe allotted in FSA-1980-15. If an extension is needed, the Authorized Agency Official may grant an extension in writing to the lender. Before issuing an extension, the Authorized Agency Official should consider whether enough time has passed that would justify updated financial information or an updated application.

The Authorized Agency Official should track the expiration date of FSA-1980-15. If the lender fails to contact the Authorized Agency Official before the expiration of FSA-1980-15, the Authorized Agency Official should contact the lender about the status of the loan.

247 Actions Before Issuing FSA-1980-27 (7 CFR 762.130)**A Lender's Actions**

After loan closing, the lender must submit the following to FSA before issuing FSA-1980-27:

- FSA-1980-22

Note: The lender will certify as to the following on the form:

- **no major changes have been made in the lender's loan or line of credit conditions and requirements since submission of the application (except those approved in the interim by the Agency in writing)**
- **required hazard, flood, crop, worker's compensation, and personal life insurance (when required) are in effect**
- **truth in lending requirements have been met**
- ***--all equal employment and equal credit opportunity and--* nondiscrimination requirements have been or will be met at the appropriate time**

247 Actions Before Issuing FSA-1980-27 (7 CFR 762.130) (Continued)

A Lender's Actions (Continued)

- the loan or line of credit has been properly closed, and the required security instruments have been obtained, or will be obtained, on any acquired property that cannot be covered initially under State law
- the borrower has marketable title to the collateral owned by the borrower, subject to the instrument securing the loan or line of credit to be guaranteed and subject to any other exceptions approved in writing by the Agency

Note: When required, an assignment on all USDA crop and livestock program payments has been obtained.

- when required, personal, joint operation, partnership, or corporate guarantees have been obtained
- liens have been perfected and priorities are consistent with requirements of the conditional commitment
- loan proceeds have been, or will be disbursed for purposes and in amounts consistent with the conditional commitment and as specified on the loan application

Note: In line of credit cases, if any advances have occurred, advances have been disbursed for purposes and in amounts consistent with the conditional commitment and line of credit agreements.

- there has been no material adverse change in the borrower's condition, financial or otherwise, since submission of the application
- all other requirements specified in the conditional commitment have been met.

- RD-1980-19

Note: The lender must complete an Agency closing report form and return it to the Agency.

- *--a completed FSA-1980-25 or FSA-1980-28 with appropriate signatures if the lender submitted the application electronically--*

247 Actions Before Issuing FSA-1980-27 (7 CFR 762.130) (Continued)

A Lender's Actions (Continued)

- an acceptable appraisal from SEL's, if the guarantee was approved, subject to an appraisal

Note: SEL's should be encouraged to submit this appraisal to FSA before loan closing to ensure compliance with FSA requirements.

- FSA-1980-38

Note: The lender must execute the Agency's lender's agreement and deliver it to the Agency. If a current FSA-1980-38 is not on file with FSA, then one must be executed before issuance of FSA-1980-27.

- guarantee fee

Notes: A guarantee fee will be charged on all loans unless otherwise stated in this paragraph. **Guarantee fees are 1 percent and are calculated as follows:**

$$\text{Fee} = \text{Loan Amount} \times \% \text{ Guaranteed} \times .01.$$

The nonrefundable fee is paid to the Agency by the lender. The fee may be passed on to the borrower and included in loan funds.

The following guaranteed loan transactions are not charged a fee:

- loans involving interest assistance
- loans where a majority of the funds are used to refinance an Agency direct loan
- * * * loans to farmers or ranchers involved in the direct beginning farmer downpayment program

Note: The beginning farmer downpayment loan program refers only to a direct FO made under FmHA Instruction 1943-A. Simply being defined as a beginning farmer will not qualify for a waiver of the fee.

- loans made under a State beginning farmer program where a memorandum of understanding between the State and USDA has been signed.

247 Actions Before Issuing FSA-1980-27 (7 CFR 762.130) (Continued)

A Lender's Actions (Continued)

- a copy of the executed promissory note or loan agreement.

Note: The lender will use its own promissory notes, line of credit agreements, real estate mortgages (including deeds of trust and similar instruments), and security agreements (including chattel mortgages in Louisiana and Puerto Rico), provided:

- the forms meet Agency requirements
- documents comply with State law and regulation
- the principal and interest repayment schedules are stated clearly in the notes and are consistent with the conditional commitment

***--Note:** A lender may use notes with short-term maturities for intermediate and long-term loans provided:

- the lender has indicated the intended term of the loan

Note: This may be done by entering the total number of years in the repayment period block of the application form.

- the subsequent note is a continuation of the original intended repayment plan and not a restructuring of a past due account
- there is a clear link between FSA-1980-27 and all the notes intended to be covered by FSA-1980-27. FSA-1980-27 references only the debt instrument used at loan closing. The necessary linkage may be established with a master note, a loan agreement, or by referring in the subsequent notes to the original debt instrument referenced on FSA-1980-27.--*

- the note is executed by the individual liable for the loan

Note: For entities, the note is executed by the member who is authorized to sign for the entity, and by all members of the entity as individuals. Individual liability can be waived by the Agency for members holding less than 10 percent ownership in the entity if the collectability of the loan will not be impaired.

Part 11 General Servicing Responsibilities**Section 1 General Servicing Requirements****262 Relationships and Responsibilities (7 CFR 762.140(a))****A Lender Role**

Lenders are responsible for servicing the entire loan in a reasonable and prudent manner, protecting and accounting for collateral, and remaining the mortgagee or secured party of record.

The lender cannot enforce the guarantee to the extent that a loss results from a violation of usury laws or negligent servicing.

The lender is responsible for:

- servicing their guaranteed loans as they service any other loan in their portfolio
- complying with all FSA program requirements.

FSA servicing regulations are designed to accommodate standard agricultural lending practices, so lenders can be assured they meet program regulations if they:

- service guaranteed loans in a prudent, traditional manner
- comply with specific program eligibility guidelines and loan limits.

B FSA Role

FSA is responsible for working with lenders to ensure that all servicing and reporting requirements are met. FSA shall:

- concur on feasible servicing requests made by the lender
- collect all necessary servicing reports required of the lender
- review a percentage of the lender's loan files annually to assess program compliance.

FSA will work closely with SEL's in loan servicing. SEL's may be new to the FSA guaranteed loan program and, therefore, may require additional assistance and guidance. CLP lenders will be monitored less, since these lenders have working knowledge of the program and should need minimal guidance and oversight. PLP lenders have proven experience with the guaranteed loan program and servicing guaranteed loans. PLP lenders will be provided maximum flexibility to service guaranteed loans and minimal supervision by FSA.

262 Relationships and Responsibilities (7 CFR 762.140(a)) (Continued)**B FSA Role (Continued)**

--When a lender attains PLP status, the lender will service its existing guarantee portfolio under the provisions of its CMS summary and FSA-1980-38. Servicing requirements that were included in FSA-1980-15's for loans made before the lender was a PLP lender may be retained upon mutual agreement between the lender and FSA.--

263 Borrower Supervision (7 CFR 762.140(b))**A Overview**

Lenders must supervise guaranteed loan borrowers in a manner similar to their supervision of regular loan customers. Lenders are expected to apply standard, agricultural loan servicing principles to their guaranteed customers.

Examples of standard borrower supervision include the following:

- maintaining regular contact with the farmer
- periodically discussing the farmer's goals and monitoring progress in meeting these goals
- accounting for loan proceeds by monitoring expenditures and discussing how these will facilitate the achievement of the operator's expressed goals
- monitoring collateral and tracking the sale of security.

B Lender Supervision of Borrowers

The lender's responsibilities regarding borrower supervision include, but are not limited to the following:

- **ensuring loan funds are not used for unauthorized purposes**
- **ensuring borrower compliance with the covenants and provisions contained in the promissory note, loan agreement, mortgage, security instruments, any other agreements, and this part**

Note: Any violations which indicate non-compliance on the part of the borrower, must be reported, in writing, to both the Agency and the borrower.

- **ensuring the borrower is in compliance with all laws and regulations applicable to the loan, the collateral, and the operations of the farm**

263 Borrower Supervision (7 CFR 762.140(b)) (Continued)**B Lender Supervision of Borrowers (Continued)**

- **receiving all payments of principal and interest on the loan as they fall due and promptly disbursing to any holder its pro-rata share according to the amount of interest the holder has in the loan, less only the lender's servicing fee**
- **performing an annual analysis of the borrower's financial condition to determine the borrower's progress.**

The loan application and other loan specific documents, including FSA-1980-15, will detail the purposes and conditions for the loan. Lenders must inform FSA of any changes in the use of loan funds. SEL's must first receive FSA concurrence before allowing a change in the use of loan funds. If a borrower uses loan funds improperly, the lender must take steps to correct the violation. If improper use of loan funds results in a loss claim, lenders must make every effort to collect the loan's remaining outstanding debt and minimize loss to FSA.

Failure by the lender to report a borrower violation to FSA in a timely manner could result in the reduction or denial of a loss claim * * *.

Borrower's progress is demonstrated by an annual improvement in balance sheets and the meeting of any interim goals. See paragraph 265.

The lender shall obtain a perfected security interest in the loan collateral. Lender's must obtain secure liens on all collateral as outlined in FSA-1980-15. A loss claim may be reduced if a lender failed to perfect the loan security.

C FSA Monitoring of Borrower Supervision

If FSA discovers that a lender does not have adequate procedures in place to ensure sound borrower supervision, the Authorized Agency Official should inform the lender in writing of the deficiency and, if necessary, require the lender to submit a plan outlining the actions they will take to correct the deficiency. Failure on the part of the lender to submit a plan or take action to correct the deficiency may result in denial of future loan applications or revocation of status.

For CLP and PLP lenders, any finding of a major deficiency should be forwarded to SED for action.

264 Servicing Collateral (7 CFR 762.142(a))**A Lender Servicing of Collateral**

The lender's responsibilities regarding servicing collateral include, but are not limited to, the following:

- **obtain income and insurance assignments when required**
- **ensure the borrower has or obtains marketable title to the collateral**
- **inspect the collateral as often as deemed necessary to properly service the loan**
- **ensure the borrower does not convert loan security**
- ***--ensure the proceeds from the sale or other disposition of collateral are accounted--*
for and applied in accordance with the lien priorities on which the guarantee is
based or used for the purchase of replacement collateral**
- **ensure the loan and the collateral are protected in the event of foreclosure,
bankruptcy (Part 13), receivership, insolvency, condemnation, or other litigation**
- **ensure taxes, assessments, or ground rents against or affecting the collateral are
paid**
- **ensure adequate insurance is maintained**
- **ensure that insurance loss payments, condemnation awards, or similar proceeds are
applied on debts in accordance with lien priorities on which the guarantee was
based, or used to rebuild or acquire needed replacement collateral.**

These requirements spell out the standard servicing of collateral responsibilities for every FSA-guaranteed loan; however, the lender and the Authorized Agency Official should refer to the specific loan documents, such as FSA-1980-15, for additional servicing requirements on a loan-by-loan basis.

264 Servicing Collateral (7 CFR 762.142(a)) (Continued)**B FSA Responsibilities**

Authorized Agency Officials can offer assistance to lenders in this area of servicing. Assistance may include the following:

- advising the lender when there is concern that the lender is overestimating or underestimating the value of collateral
- regularly asking the lender about the condition of the borrower's collateral, especially security that is particularly valuable or volatile
- performing cross checks to verify that UCC filings have been made for all collateral
- informing the lender of deficiencies discovered during the annual review and proposing modifications in procedures to resolve the deficiencies.

C FSA Monitoring of Collateral Servicing

If FSA discovers that a lender does not have adequate procedures in place to ensure that the collateral is being serviced to FSA standards, the Authorized Agency Official should inform the lender in writing of the deficiency and, if necessary, require the lender to submit a plan outlining the actions they will take to correct the deficiency. Failure on the part of the lender to submit a plan or take action to correct the deficiency may result in denial of future loan applications or revocation of status until the deficiency is resolved.

For CLP and PLP lenders, any finding of a major deficiency should be forwarded to SED for action.

265 Annual Analysis of Borrower's Financial Condition (7 CFR 762.140(b)(5))**A Overview**

The lender must perform an annual financial analysis of the borrower within 90 calendar days of the end of the borrower's operating cycle. SEL's and CLP lenders must submit documents to FSA in support of this analysis. PLP lenders must perform a financial analysis and report on a borrower's financial progress according to the terms of their FSA-1980-38. This paragraph describes the specific requirements for SEL's and CLP lenders.

PLP lenders will perform an annual analysis in accordance with the requirements established in the Lender's Agreement.

B Financial Analysis of Borrower by SEL

The annual analysis will include:

- **for loans secured by real estate only, the analysis for standard eligible lenders must include a balance sheet**
- **for loans secured by chattels, all lenders will review the borrower's progress regarding business goals, trends, and changes in financial performance, and compare actual to planned income and expenses for the past year**
- **an account of the whereabouts or disposition of all collateral**
- **a discussion of any observations about the farm business with the borrower.**

265 Annual Analysis of Borrower's Financial Condition (7 CFR 762.140(b)(5)) (Continued)

C Documents Submitted to FSA by SEL in Support of Annual Analysis

[7 CFR 762.141(d)] SEL shall provide the following to FSA:

- **borrower's Balance Sheet and Income and Expense Statement for the previous year, *--if applicable--***
- **for lines of credit, the cash flow for the borrower's operation that projects a feasible plan or better for the upcoming operating cycle**

Note: The standard eligible lender must receive approval from the Agency before advancing future years' funds.

- **an annual farm visit report or collateral inspection.**

*--

Submission Summary	
Real Estate	Balance Sheet and Farm Visit Report Income and Expense Statement from previous year only if loan was also secured by chattels
Term Chattels	Balance Sheet and Farm Visit Report Income and Expense Statement
Lines of Credit	Balance Sheet and Farm Visit Report Income and Expense Statement Projected Cash Flow

--*

These documents should be submitted to the Authorized Agency Official within 30 calendar days of the completion of the annual financial analysis.

D Annual Analysis of Borrower by CLP Lender

*** * * CLP lenders will determine the need for the annual analysis based on the financial strength of the borrower and document the file accordingly.**

For loans secured by chattels, all lenders will review the borrower's progress regarding business goals, trends and changes in financial performance, and compare actual to planned income and expenses for the past year.

CLP lenders shall maintain an account of the whereabouts or disposition of all collateral.

--The accounting will occur in the form of a documented annual farm visit report or collateral inspection report for all chattel loans.--

CLP lenders shall document a discussion of any observations about the farm business with the borrower.

265 Annual Analysis of Borrower's Financial Condition (7 CFR 762.140(b)(5)) (Continued)

D Annual Analysis of Borrower by CLP Lender (Continued)

If the lender determines that an analysis should be performed, the analysis may be based on a comparison of current and past balance sheets. If a balance sheet analysis is not performed by the lender, information that confirms the borrower is strong financially and reasons why the lender is confident of the borrower's progress must be provided by the lender. Examples of information that would indicate the financial strength of the borrower would include deposit or investment accounts with the lender.

E Documents Submitted to FSA by CLP in Support of Annual Analysis

[7 CFR 762.141(c)] CLP lenders shall submit the following to FSA in support of their annual analysis:

- a written summary of the lender's annual analysis of the borrower's operation

Note: This summary should describe the borrower's progress and prospects for the upcoming operating cycle. This annual analysis may be waived or postponed if the borrower is financially strong. The summary will include a description of the reasons an analysis was not necessary.

- for lines of credit, an annual certification stating that a cash flow projecting at least a feasible plan has been developed, that the borrower is in compliance with the provisions of the line of credit agreement, and that the previous year income and loan funds and security proceeds have been accounted for.

*--

Submission Summary	
Real Estate	Either a summary of lender's analysis or summary as to why financial strength makes analysis unnecessary.
Term Chattels	Either a summary of lender's analysis or summary as to why financial strength makes analysis unnecessary.
Lines of Credit	Certification that cash flow was obtained Borrower in compliance with lender's agreement Lender has accounted for previous year's income and loan funds and security proceeds are accounted.

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These documents must be submitted to the Authorized Agency Official within 30 calendar days of the completion of the annual financial analysis.

265 Annual Analysis of Borrower's Financial Condition (7 CFR 762.140(b)(5)) (Continued)**F FSA Review of Annual Financial Analyses**

Upon receiving the annual borrower financial analysis supporting documentation from SEL, the Authorized Agency Official should review the documentation for the following:

- indications of borrower financial distress or major changes in the borrower's financial status from the previous year
- changes in the appearance of the operation or collateral. If the Authorized Agency Official notices any problems, he or she should call the lender to discuss these concerns.

For borrowers with LOC, FSA must determine at this time whether or not LOC should be renewed for the next year.

Upon receiving the annual borrower financial analysis supporting documentation from a CLP lender, the Authorized Agency Official should review the documentation of the borrower's progress on loan payback. The narrative should summarize factors of financial strength which support the lender's determination that further analysis is unnecessary, if applicable.

--After reviewing the annual financial analyses submitted by the SEL and CLP lender, the Authorized Agency Official must document their review of the annual financial analysis by making an entry in the borrower's County Office guaranteed loan file. To the extent the-- Authorized Agency Official has concerns about a specific borrower or lender's management and supervision of FSA-guaranteed loans in general, the Authorized Agency Official should communicate these concerns to the lender in writing.

Copies of correspondence, including authorization to advance LOC funds, will be placed in the borrower's Agency guaranteed loan file. A copy of any correspondence sent to a lender regarding their management of a loan will be placed in the lender's file and, if the deficiency is major, a copy forwarded to SED. The borrower's file will be marked for necessary follow up actions.

266 Lender Reporting Requirements (7 CFR 762.141)**A Overview**

This section covers the general reporting requirements for all lenders. These reporting requirements are not tied to any specific servicing action. Many servicing actions require additional reports and updates from lenders, which this paragraph does not cover. See Exhibit 15 for a checklist of all lender reporting requirements.

B General Reporting Requirements

Lenders are responsible for providing the local Agency credit officer with all of the following information on the loan and the borrower:

- **When the guaranteed loan becomes 30 days past due, and following the lender's meeting or attempts to meet with the borrower, all lenders will submit the appropriate Agency form showing guaranteed loan borrower default status. The form will be resubmitted every 60 days until the default is cured either through restructuring or liquidation.**
- **All lenders will submit the appropriate guaranteed loan status reports as of March 31 and September 30 of each year.**
- **PLP lenders will submit additional reports as required in their Lender's Agreement.**
- **A lender receiving a final loss payment must complete and return an annual report on its collection activities for each unsatisfied account for 3 years following payment of the final loss claim.**

Lenders shall submit FSA-1980-44 to comply with the requirement to report borrower defaults. This report is used first to notify FSA that a loan is in default, second, as a progress report on the lender's attempt to make the loan current again, and third, once a loan is brought current, as a means to notify FSA of the new loan terms and conditions. See Part 12 for more details on this reporting requirement.

Lenders should submit FSA-1980-41 to comply with the requirement to submit a semi-annual loan status report. This report provides an update on the borrower's progress on loan payback and the loan's terms and conditions.

266 Lender Reporting Requirements (7 CFR 762.141) (Continued)**B General Reporting Requirements (Continued)**

Lenders should submit FSA-1980-26 to satisfy the requirement for an annual report on collection activities. See Part 14 for more details on this reporting requirement.

C FSA Monitoring of Lender Reports

The Authorized Agency Official should carefully review reports received from lenders, noting changes from previous reports. If the lender is not sending these reports in a timely manner, the Authorized Agency Official should document attempts to obtain the reports and communicate problems to SED.

--The Authorized Agency Official will enter information from FSA-1980-41 into GLS when FSA-1980-41 is received from the lender. The first FSA-1980-41 for a loan will be completed for the second semi-annual reporting cycle after the loan was closed. FSA-1980-41 will not be required on a loan that was closed within the past 6 months.--

The Authorized Agency Official should review the lender's semi-annual FSA-1980-41 to see if it indicates that the loan is in good standing. If the principal balance has not been reduced in over a year, the accrued interest balance appears inordinately large, the interest rate does not comply with the promissory note, or other concerns, the issue should be discussed with the lender. If necessary, the discussion should be followed by a letter requesting that the account be corrected and a new FSA-1980-41 submitted.

An indication on FSA-1980-41 that the loan is past due will not place the account in default in FSA's records. If the lender has indicated that an account is past due, and FSA-1980-44 has not been submitted, the Authorized Agency Official shall contact the lender and request that FSA-1980-44 be submitted if the account will not be brought current within a few days.

*--Entering information from FSA-1980-44, which shows a loan has been brought to a current status, will remove that loan from a delinquency status; however, it will not change the amount the loan payments are shown as Ahead/Behind. The Authorized Agency Official will prepare an updated FSA-1980-41, using the information from FSA-1980-44, and process into GLS. If the information on FSA-1980-41 shows the loan as current, and the amount Ahead/Behind is shown as zero, the management reports will reflect the correct status of the loan.

See Part 12 for other FSA actions regarding FSA-1980-44.--*

See Part 14 for FSA actions regarding FSA-1980-26.

267 FSA Loan Servicing Responsibilities

A Overview

Authorized Agency Officials will be FSA's primary point of contact with lenders on a day-to-day basis. Authorized Agency Officials must ensure that lenders are appropriately managing their guaranteed loans, and submitting all required reports on time. In cases where lenders may have deficiencies in loan servicing, the Authorized Agency Official should provide loan servicing guidance and assistance.

The purpose of performing lender file reviews is to protect the guarantee, preserve lender status, and minimize losses and the need for adjustments to loss claims.

B Lender Loan Files Review Priorities

--For each SEL, FSA will annually review the files of 40 percent of the lender's outstanding guaranteed OL and/or OL-LOC borrowers, unless the 40 percent requirement would result in borrowers being reviewed who were reviewed the previous year. If the 40 percent requirement would result in some of the same borrowers being subject to review, then, for those borrowers, the review will be every other year. SEL files for FO-only borrowers will be reviewed within 3 years of the date the loan is closed and subsequently if the loans become nonperforming. For each CLP and PLP lender, FSA must annually review the-- files of 20 percent of the lender's outstanding guaranteed loan borrowers. If the file reviews for a PLP lender have found no major deficiencies during the first 3 years of reviews, the frequency of file reviews may be reduced to biennially, and the number of files reviewed may be reduced to a minimum of 5 files, or 10 percent of the lender's loans, whichever is greater. For lenders processing guaranteed loans in more than 1 State, the file reviews should be done in the State where the lender is headquartered, and other States in the lender's service area may send personnel to assist in the review.

Loans are selected for review according to the following priorities:

- loans receiving consideration for rescheduling, deferral, writedown, transfer and assumption, or substitution of lender
- delinquent loans or loans which the lender or FSA has identified as high risk
- loans in which the funds were used to refinance the lender's own debt
- the most recent loans closed by the lender and not yet reviewed
- other loans.

267 FSA Loan Servicing Responsibilities (Continued)**B Lender Loan Files Review Priorities (Continued)**

FSA-1980-03 and FSA-1980-04 may be used to document the lender file reviews. All questions on each FSA-1980-03 and FSA-1980-04 do not require completion for each file reviewed, as long as reviews are sufficient to document that lenders are meeting the underwriting, origination, and servicing requirements of their FSA-1980-38's and this handbook. In addition to the lender's loan file, a copy of the loan account ledger should be obtained and reviewed. Additional information may be requested and reviewed by FSA, if necessary, based on deficiencies noted in the file, in loss claim reviews, or as suggested by other parties. SED shall determine how the file review requirement will be met in their State.

C Multi-State PLP Lender File Review

Where PLP lenders are approved to make and service loans in multiple States, it may be beneficial to both FSA and the lender to conduct a multi-State file review to meet the file review requirement. This review can benefit:

- FSA by:
 - helping to lead toward a more consistent handling of the reviews and the associated findings
 - having an opportunity to identify and correct inconsistent practices of the lender or FSA
- lenders by:
 - gaining a better understanding of across-the-board FSA expectations of the lender
 - having minimal disruption to their State operations as a result of FSA file reviews.

To ensure that multi-State reviews are given full consideration, the following procedures will be followed.

- *--In January of each year, the National Office will contact each lender that has PLP status in a minimum of 3 States and the appropriate States in which that lender has PLP status. This contact will determine, based upon the lender and the States' opinion, whether a multi-State review is necessary. If it is determined that a multi-State review is necessary, the National Office will take the lead in contacting the lender and coordinating the review. Multi-State reviews may be scheduled at any time during the year.--*

267 FSA Loan Servicing Responsibilities (Continued)**C Multi-State PLP Lender File Review (Continued)**

- In January of each year, the National Office will provide a list of lenders that have PLP status in only 2 States to appropriate Farm Loan Chiefs. Farm Loan Chiefs will be responsible for contacting each other to determine whether a multi-State review is necessary. State Offices will take the lead in coordinating the reviews. Farm Loan Chiefs will determine review participants.

The multi-State review will not alleviate the lender of their responsibility to provide Authorized Agency Officials access to any particular file or files of the lender if in the Authorized Agency Official's opinion an additional review is necessary.

D Authorized Agency Official Review of PLP Lender Loan Files

PLP loan file reviews will be documented by completing FSA-1980-04. The review of PLP loan files will be based on the terms and conditions specified in FSA-1980-38. The following questions should be considered during the loan file review.

- Do the files contain sufficient information to document that the underwriting and servicing was consistent with FSA-1980-38?
- Were servicing actions implemented in a manner consistent with FSA-1980-38?
- Was servicing prudent and reasonable?

E Authorized Agency Official Response to Loan File Review

--During the lender loan file reviews, the Authorized Agency Official shall hold an entrance and exit conference with the lender. At the entrance conference, the Authorized Agency Official will outline the purpose of the review and request any information that will be required to complete the review. At the exit conference, the Authorized Agency Official will discuss with the lender any deficiencies as well as the lender's accomplishments. The Authorized Agency Official will forward a letter to the lender outlining the findings of the loan file review. Letters or reports from lender visits and loan file reviews must be filed according to 25-AS, Exhibit 40.5, with copies forwarded to DD. If the review reveals frequent deficiencies, a report should be forwarded to SED.--

267 FSA Loan Servicing Responsibilities (Continued)**F Authorized Agency Official Review of Loan Servicing Reports Provided by Lender**

The Authorized Agency Official is responsible for obtaining all required information from lenders regarding the servicing of guaranteed loans. This includes the annual financial analysis performed to determine the borrower's progress on loan payback and goal achievement (paragraph 265), loan status reports (paragraph 266), and all other materials submitted to FSA, including requests by lenders to perform certain servicing actions.

G Authorized Agency Official Approval Authority

Authorized Agency Officials can approve the following servicing actions:

- alterations in loan conditions that do not prejudice the government's interest
- replacement of collateral
- the use of proceeds from the disposition of collateral.

H DD Servicing Responsibilities

DD servicing responsibilities include:

- providing guidance and assistance to the Authorized Agency Official in monitoring guaranteed loans
- reviewing a sample of lender visit reports and loan reviews, making recommendations or comments, and forwarding reports of deficiencies to SED
- make recommendations to the Authorized Agency Official on all delinquent loans
- conducting other servicing actions as directed by SED.

267 FSA Loan Servicing Responsibilities (Continued)**I SED Servicing Responsibilities**

SED's have broad management responsibilities for the guaranteed loan program. SED servicing responsibilities include, but are not limited to, the following:

- review deficiencies identified by the Authorized Agency Official and provide recommendations for resolution
- perform an annual review of each lender's CLP and PLP status, and if the lender is found to be deficient in meeting the minimum criteria, then upon notification to the lender, remove the status

***--Note:** For PLP lenders, the decision to remove PLP status must be made in the National Office after reviewing SED's recommendation.

- perform appraisal reviews according to 1-FLP, paragraph 143

Note: See 1-FLP, Part 6 for additional guidance on appraisal review issues.--*

- maintain a lender file for each guaranteed lender in the State Office.

J Addressing Deficiencies

If deficiencies in loan servicing are detected by FSA, the Authorized Agency Official will work with the lender to correct any problems. If the lender fails to correct a major loan servicing deficiency, and the deficiency results in a loss, the loss claim may be reduced or denied.

Subparagraph 52 H contains the definition of major and minor deficiencies. Refer to paragraphs 48 and 54 for follow-up actions and consequences of not correcting deficiencies for SEL's and PLP lenders, respectively.

K MOU Between FSA and FDIC

If a lender who participates in FSA's Guaranteed Farm Loan Programs fails, FDIC may, as Receiver, assume responsibility for FSA-1980-15, FSA-1980-27, and/or FmHA-449-34 for all guaranteed loans to which the closed bank was a party.

Exhibit 16 outlines the responsibilities of FSA and FDIC in such cases.

268-277 (Reserved)

Section 2 Restructuring Requirements for Guaranteed Loans**312 Lender Requirements and Conditions for Loan Restructuring (7 CFR 762.145)****A General Requirements**

For any restructuring action, the following conditions apply.

- **The borrower meets the eligibility criteria of § 762.120, except the provisions regarding prior debt forgiveness and delinquency on a Federal debt do not apply.**

Note: When a lender submits a request for FSA concurrence with a restructuring action, the Authorized Agency Official will review the borrower's eligibility for the loan. However, the eligibility provisions of subparagraphs 108 C and D do not apply to the restructuring of existing loans.

- **The borrower's ability to make the amended payment is documented by the following:** (SEL and CLP lender only; PLP lender shall see the lender's agreement)

- **a feasible plan (see section 762.102(b))**

Note: If interest assistance is required to achieve a feasible plan, the items required by Sec. 762.150(d) must be submitted with a restructuring request.

- **current financial statements from all liable parties**
- **verification of nonfarm income**
- **verification of all debts of \$1,000 or more**
- **applicable credit reports**
- **financial history (and production history for standard eligible lenders) for the past 3 years to support the cash flow projections.**
- **A final loss claim may be reduced, adjusted, or rejected as a result of negligent servicing after the concurrence with a restructuring action under this section.**

312 Lender Requirements and Conditions for Loan Restructuring (7 CFR 762.145) (Continued)

A General Requirements (Continued)

- **Balloon payments are prohibited; however, the loan can be restructured with unequal installments, provided that, in addition to a feasible plan for the upcoming operating cycle, a feasible plan can be reasonably projected after the installments increase without further restructuring. Feasible plan is defined in § 762.102(b).**
 - *--Example of unequal installment:** A payment that increases as the cash flow and debt repayment ability of the farming operation increases because of development or expansion. Unequal installments may be used when development is being financed, such as the planting of orchards or other perennial crops, the construction of livestock or other processing facilities, or the purchase of foundation livestock. Since typical production income may not be realized for quite a number of years in some cases, higher installments could be scheduled later in the life of the loan. For instance, an orchard development may be financed resulting in the planting of immature trees. In years 1 through 3, there may be no realized production and income. In years 4 through 6, initial production may be anticipated; however, full production may not be expected until years 8 through 10. Unequal payments may be adjusted accordingly.--*
 - **If a borrower is current on a loan, but will be unable to make a payment, a restructuring proposal may be submitted prior to the payment coming due.**
 - **The lender may capitalize the outstanding interest.** See subparagraph 326 D.
 - **The lender's security position will not be adversely affected because of the restructuring. New security instruments may be taken if needed, but a loan does not have to be fully secured in order to be restructured.**
- Note:** If the lender takes additional security as part of the loan restructuring, a list of the new security items and their estimated values should be forwarded to the Authorized Agency Official along with all other restructuring materials according to paragraph 313.
- **Any holder agrees in writing to any changes in the original loan terms, including the approval of interest assistance. If the holder does not agree, the lender must repurchase the loan from the holder for any loan restructuring to occur.**

All lenders will submit copies of any restructured notes or lines of credit to the Agency.

If a co-borrower or co-signer is required to execute a note in conjunction with a restructuring, the lender must provide the name, Social Security number, and current address of the co-borrower or co-signer to the Agency.

313 Specific Lender Requirements for Loan Restructuring (7 CFR 762.145)**A SEL Request for Restructuring**

Standard eligible lenders must obtain prior written approval of the Agency for all restructuring actions.

After SEL has restructured the loan, the lender must submit:

- FSA-1980-44 indicating that the loan is current
- copies of restructured notes or LOC's.

After SEL has submitted all of these documents, FSA shall:

- review the documents for compliance
- input FSA-1980-44 into GLS
- execute FSA-1980-84 and provide a copy to the lender, if applicable
- complete and forward FSA-1980-48 to KCFO.

Note: For loans with IA, see subparagraphs 230 D and E for additional requirements.

B CLP Restructuring Requirements

CLP lenders must obtain prior written approval of the Agency only for debt write down under this section.

For restructuring other than write down, CLP lenders will provide FSA with a certification that each requirement of this section (part) has been met, a narrative outlining the circumstances surrounding the need for restructuring, and copies of any applicable calculations.

357 Foreclosure and Acceleration (7 CFR 762.149) (Continued)**C Acceleration (Continued)**

The lender accelerates a loan note by giving the borrower written notice via certified mail that the loan is in default and the entire debt is due and payable. The lender must make a copy of the acceleration notice and attach it to the first FSA-1980-44 that is submitted following note acceleration. Once a note is accelerated, the borrower will have typically 30 calendar days from the date of acceleration to make payment in full by cash, transfer, sale of property, or voluntary conveyance. If the borrower fails to satisfy the account in the period specified in the notice, the foreclosure process will continue until the loan security is liquidated.

Once the note is accelerated all other servicing procedures other than liquidation and its associated actions, such as making protective advances, cease.

D Foreclosure

The lender is responsible for determining who the necessary parties are to any foreclosure action or who should be named on a deed of conveyance taken in lieu of foreclosure.

When the property is liquidated, the lender will apply the net proceeds to the guaranteed loan debt.

When it is necessary to enter a bid at a foreclosure sale, the lender may bid the amount that it determines is reasonable to protect its and the Agency's interest. At a minimum, the lender will bid the lesser of the net recovery value or the unpaid guaranteed loan balance.

Foreclosure refers to the comprehensive process of preparing for and selling the collateral that secures a loan that is being liquidated. Therefore, the foreclosure process begins once the lender decides to accelerate the loan in preparation for liquidation and ends once the loan's security is liquidated.

358 Lender Liquidation Plan (7 CFR 762.149(b))**A Overview**

Once the decision has been made to liquidate, the lender must submit a liquidation plan and, if applicable, a request for IA reimbursement to FSA within 30 calendar days. The liquidation plan must include a schedule of all projected liquidation activities, and a complete inventory of the security to be sold.

B General Requirements

If a default cannot be cured after considering servicing options and mediation, the lender will proceed with liquidation of the collateral in accordance with the following.

For SEL's * * * and CLP lenders, **within 30 days of the decision to liquidate, all lenders will submit a written plan to the Agency which includes:**

- **a current balance sheet from all liable parties or, if the parties are not cooperative, the best information available, or in liquidation bankruptcies, a copy of the bankruptcy schedules or discharge notice**
- **a proposed method of maximizing the collection of debt which includes specific plans to collect any remaining loan balances on the guaranteed loan after loan collateral has been liquidated, including possibilities for judgment**
 - **If the borrower has converted loan security, the lender will determine whether litigation is cost effective. The lender must address, in the liquidation plan, whether civil or criminal action will be pursued. If the lender does not pursue the recovery, the reason must be documented when an estimated loss claim is submitted (subparagraph 360 E).**
 - **Any proposal to release the borrower from liability will be addressed in the liquidation plan in accordance with § 762.146(c)(2) (paragraph 361).**

Note: If according to paragraph 361 the release of liability can be approved, it will not be granted until either all of the collateral is voluntarily conveyed to the lender or it is liquidated.

360 Lender Submission of Final Loss Claim (7 CFR 762.149) (Continued)**F FSA Approval and Payment of Final Loss Claim (Continued)**

Interest accrual on a final loss should be the same as on the estimated loss except for the amount that accrued while the payment was being issued. If liquidation was completed as planned and the claim was timely submitted to FSA, additional interest may be paid for the number of calendar days over 40 that FSA took to review the claim up to the date of the check. If an estimated loss was not paid, SED shall determine whether the lender has liquidated the account in a timely manner. If liquidation was unduly delayed or the lender did not comply with the reporting requirements of this part, interest accrual will be included on the claim to the date that SED determines that liquidation should have reasonably been accomplished.

Interest accrual as part of a lender's final loss claim will never exceed 90 calendar days from the date of the decision to liquidate, plus any additional days over 40 calendar days that it took FSA to review the claim up to the date of the check, for all claims made after February 12, 1999, in which an estimated claim was not filed and the final claim was submitted within 90 calendar days of the date of the decision to liquidate.

If an estimated claim was not submitted and the final claim was submitted beyond 90 calendar days of the date of the decision to liquidate, interest accrual will not be paid beyond 90 calendar days from the date of the decision to liquidate for all claims made after February 12, 1999.

Interest accrual as part of a final claim will be the same as the estimated claim for all final claims in which an estimated claim was previously submitted.

FSA may pay a loss when a borrower sells security out of trust. If the borrower has converted loan security, the lender shall determine whether litigation is cost-effective. The lender must determine whether civil or criminal action is cost-effective and will be pursued. If the lender does not pursue the recovery, the reason must be documented when a loss claim is submitted. If recovery of converted security through legal action is possible, a lender may still submit a final loss claim and reimburse FSA according to subparagraph 362 A after proceeds are collected.

If a lender's loss claim is denied or reduced, SED shall notify the lender in writing immediately of the decision. Lenders may appeal this decision according to 1-APP.

***--Note:** For loans made before February 12, 1999, denied lender's loss claims will be handled according to FmHA Instructions 1980-A and 1980-B in effect at the time the guarantee was issued. See Exhibit 16.5.--*

When the final RD-449-30 is accepted by the Authorized Agency Official and approved by SED, SED shall forward RD-449-30 to the Finance Office for payment. The final loss claim will be paid up to the maximum amount allowed as provided in subparagraph 195 C. In the case of a loan that is a total loss, the loss payment may exceed the original guaranteed principal and accrued interest, if it includes emergency advances or protective advances.

360 Lender Submission of Final Loss Claim (7 CFR 762.149) (Continued)**G Overpayment**

If the final loss is less than the estimated loss, the lender will reimburse the Agency for the overpayment plus interest at the note rate from the date of the estimated loss payment.

The lender's ledger provided with the final loss claim should reflect that since the estimated claim was paid, the following has occurred:

- application of liquidation proceeds net of expenses
- approved protective advances
- any voluntary payments
- no additional interest accrual except on protective advances.

The ledger should not reflect that the FSA-estimated loss claim was applied as a regular payment. The amount of overpayment or underpayment will be calculated on RD-449-30.

--The interest due on any loss claim will be calculated by KCFO, St. Louis based upon the borrower's rate of interest and the date the estimated claim was paid. If the lender wishes to submit a check with their request for a final loss claim, this amount may be obtained by contacting the KCFO, St. Louis technician before submitting RD-449-30.--

H Return of Guarantee

The lender will return the original Guarantee marked paid after receipt of a final loss claim.

The final loss claim payment will be sent by EFT whenever possible. Return of the Guarantee is not required before EFT or delivery of a check. After verification that the final loss claim has been paid, the account will be terminated in GLS.

361 Release of Liability After Liquidation (7 CFR 762.146(c))**A Overview**

--For loans made using FSA-1980-25 or FSA-1980-28 with the revision date before July 20, 2001, after a final loss claim has been paid, the lender may release the borrower or any guarantor from liability with FSA concurrence if the conditions of subparagraph B can be met.--

***--363 Collecting Final Loss Claim Payments From Guaranteed Loan Debtors
(7 CFR 762.149(m)) (Continued)**

B Guaranteed Final Loss Claim Payments Not Subject to Offset

Final loss claim payments for borrowers who executed FSA-1980-25 with a revision date of July 27, 1999, or earlier, or FSA-1980-28 with a revision date of April 7, 1999, or earlier, shall not be offset.

Loans approved using FSA-1980-25 or FSA-1980-28 with the July 20, 2001, or later revision date, that are discharged in bankruptcy will establish a Federal debt, but are not subject to offset.

Notes: Any debt reaffirmed under Chapter 7 bankruptcy on which a final loss claim is later paid, is considered a Federal debt and shall be subject to offset.

In a reorganization bankruptcy, if the confirmed plan is not successfully completed and the bankruptcy is dismissed, the payment of a final loss claim will be considered a Federal debt and shall be subject to offset.

C Payments Not Subject to Offset

The following payments are not subject to offset:

- Federal crop insurance indemnity payments
- the initial payment for planting expenses under certain conservation programs
- program payments ineligible for offset.

Payments will not be offset when the Authorized Agency Official determines that it is not in the best interest of the Government.

D Debtor Notification of FSA's Intent to Offset

Immediately upon confirmation of a final loss claim payment, the Authorized Agency Official shall provide the debtor and any co-debtors notification of intent to offset using Exhibit 17, according to this subparagraph and 7 CFR Part 3.

Exhibit 17 must be sent to debtors by certified mail. If Exhibit 17 is returned, the Authorized Agency Official shall use first class mail or personal delivery.

The date Exhibit 17 was received by the debtor and/or co-debtor will be entered in GLS for:

- tracking
- referral of debt for offset.--*

363 Collecting Final Loss Claim Payments From Guaranteed Loan Debtors (7 CFR 762.149(m)) (Continued)

D Debtor Notification of FSA's Intent to Offset (Continued)

The Authorized Agency Official shall provide written notification to debtors a minimum of:

- 30 calendar days before affecting non-centralized administrative offset and IAO
- 60 calendar days before affecting TOP.

If a USDA payment will be made to a debtor within 30 calendar days of the payment of a final loss claim and FSA finds that failure to take the offset would substantially prejudice the Government's ability to collect the debt, FSA shall notify the debtor that FSA will/has offset the payment due using Exhibit 18.

Exhibit 18 shall:

- contain the reasons FSA had to affect IAO and non-centralized administrative offset
- be sent to the debtor as soon as possible.

The debtor's pro rata share of entity payments will be offset according to 7 CFR Part 3 and RD Instruction 1951-C, section 1951.106 after the nondebtor entity members have been notified using Exhibit 19 or 20, as appropriate.

Note: The Authorized Agency Official shall request written concurrence from SED before
--sending Exhibit 18 or 20.--

Authorized Agency Officials shall follow RD Instruction 1951-C, paragraphs 1951.103 (c) through (g) to handle debtor requests received as a result of the receipt of Exhibits 17 through 20.

Debtors proposing an agreement to repay the debt as an alternative to offset must include the full amount of the Federal debt. The Federal debt must be paid within a short period of time.

E Salary Offset

The Authorized Agency Official shall determine whether collection by salary offset is feasible according to 7 CFR Part 3 and RD Instruction 1951-C, paragraph 1951.111.

F Referral of Debt for IAO Offset

The Authorized Agency Official shall refer debtors:

- immediately for IAO and non-centralized administrative offset if Exhibit 18 or 20 was sent
- for IAO and non-centralized administrative offset 30 calendar days after sending Exhibit 17 or 19, and/or after the conclusion of a review or appeal.

Reports, Forms, Abbreviations, and Redelegations of Authority (Continued)

Forms (Continued)

Number	Title	Display Reference	Reference
RD-1910-5	Request for Verification of Employment		69.6, 152
RD-1940-3 1/	Request for Obligation of Funds Guaranteed Loans		226, 230, 244, 245, 326
RD-1951-C-1	Notice of Intent to Collect by Administrative Offset		376
RD-1956-1	Application for Settlement of Indebtedness		363
RD-1980-7	Notification of Transfer and Assumption of a Guaranteed Loan		281
RD-1980-19	Guaranteed Loan Closing Report		227, 247, 249, 286
RD-1980-43	Lender's Guaranteed Loan Payment to USDA		376
RD-1980-45	Notice of Liquidation Responsibility		362
RD-1980-47	Guaranteed Loan Borrower Adjustments		281, 284, 288
W-2	Wage and Tax Statement		152

1/ This form is obsolete.

Abbreviations Not Listed in 1-CM

The following abbreviations are not listed in 1-CM.

Approved Abbreviation	Term	Reference
ADPB	average daily principal balance	228
ALP	Approved Lender Program	34
BCIS	Bureau of Citizenship and Immigration Services	Ex. 7, 8
CLP	Certified Lender Program	Text
CMS	Credit Management System	52-54, 70, 151, 262, 287
CONACT	Consolidated Farm and Rural Development Act	108
DCIA	Debt Collection Improvement Act of 1996	363, Ex. 17, 18
ECOA	Equal Credit Opportunity Act	31, 210
EE	economic emergency loan	108
EFT	Electronic Funds Transfer	360
EIS	Executive Information System	84

Reports, Forms, Abbreviations, and Redelegations of Authority (Continued)

Abbreviations Not Listed in 1-CM (Continued)

Approved Abbreviation	Term	Reference
EL	emergency livestock loan	108
EM	emergency loans	108, 138, 244
EO	economic opportunity loan	108
FmHA	Farmer's Home Administration (formerly by FSA)	108
FMI	Forms Manual Inserts	226, 328, 359, 362
FO	farm ownership loan	Text
GLS	Guaranteed Loan System	Text
IA	interest assistance	Text
IAO	Internal Administrative Offset	363, Ex. 2, 17, 18
INA	Immigration and Nationality Act	Ex. 7
INS	Immigration and Naturalization Service	108
LOC	line of credit	Text
MOU	Memorandum of Understanding	Ex. 16
OL	operating loan	Text, Ex. 2
PLP	Preferred Lender Program	Text
PRWORA	Personal Responsibility and Work Opportunity Reconciliation Act of 1996	Ex. 2, 7
RHF	Rural Housing for farm service buildings	108
RL	recreation loan	108
SAA	Shared Appreciation Agreement	286, 288
SEL	Standard Eligible Lender	Text
SW	soil and water loan	49, 50, 52, 108, 244, 281, 326
TOP	Treasury Offset Program	363, Ex. 2, 17, 18, 21
USPAP	Uniformed Standards of Professional Appraisal Practice	181, 183, 267

Redelegations of Authority

This table lists the redelegations of authority in this handbook.

Redelegation	Reference
Administering handbook provisions	20

Definitions of Terms Used in This Handbook

Additional Security

Additional security is collateral in excess of that needed to fully secure the loan.

Allonge

Allonge is an attachment or an addendum to a note.

Applicant

For guaranteed loans, the lender requesting a guarantee is the applicant. The party applying to the lender for a loan will be considered the loan applicant.

Approval Official

An approval official is the FSA official authorized to approve a loan or servicing request. The official is determined depending on the dollar limitations and other conditions applicable to a particular action.

Aquaculture

Aquaculture is the husbandry of aquatic organisms in a controlled or selected environment. An aquatic organism is any fish, amphibian, reptile, or aquatic plant. An aquaculture operation is considered to be a farm only if it is conducted on the grounds which the loan applicant owns, leases, or has an exclusive right to use. An exclusive right to use must be evidenced by a permit issued to the loan applicant and the permit must specifically identify the waters available to be used by the loan applicant only.

Assignment of Guaranteed Portion

Assignment of guaranteed portion is the process by which the lender transfers the right to receive payments or income on the guaranteed loan to another party, usually in return for payment in the amount of the loan's guaranteed principal. The lender retains the unguaranteed portion in its portfolio and receives a fee from the purchaser or assignee to service the loan, and receive and remit payments according to a written assignment agreement. This assignment can be reassigned or sold multiple times.

*--Authorized Agency Official

The Authorized Agency Official is the FSA official that is authorized to perform specific tasks related to loan making or servicing. The appropriate official is determined by inherent authorities or delegations applicable to a particular task.--*

Definitions of Terms Used in This Handbook (Continued)

Average Farm Customers

Average farm customers are **those conventional farm borrowers who are required to pledge their crops, livestock, and other chattel and real estate security for the loan. This does not include high-risk farmers with limited security and management ability who are generally charged a higher interest rate by conventional agricultural lenders. Also, this does not include low-risk farm customers who obtain financing on a secured or unsecured basis, who have as collateral items such as savings accounts, time deposits, certificates of deposit, stocks and bonds, and life insurance which they are able to pledge for the loan.**

*--Balloon Installment

A balloon installment is a final ending installment of a loan that is typically characterized by a sizeable balance that is intended to be paid through rescheduling or refinancing the remaining debt. A loan that incorporates a “balloon installment” may be scheduled with equal or unequal installments during the term of the loan.--*

Basic Security

Basic security is **all farm machinery, equipment, vehicles, foundation and breeding livestock herds and flocks, including replacements, and real estate which serves as security for a loan guaranteed by the Agency.** With respect to livestock herds and flocks, animals that are sold as a result of the normal culling process are basic security unless the borrower has replacements that will keep numbers and production up to planned levels. However, if a borrower plans to make a significant reduction in the basic livestock herd or flocks, the animals that are sold in making this reduction will be considered basic security.

Beginning Farmer or Rancher

A beginning farmer or rancher is an individual or entity who:

- meets the loan eligibility requirements for OL or FO assistance, as applicable
- has not operated a farm or ranch, or who has operated a farm or ranch for not more than 10 years; this requirement applies to all members of an entity
- will materially and substantially participate in the operation of the farm or ranch

Notes: In the case of a loan made to an individual, individually or with the immediate family, material and substantial participation requires that the individual provide substantial day-to-day labor and management of the farm or ranch, consistent with the practices in the county or State where the farm is located.

Definitions of Terms Used in This Handbook (Continued)**Typical Plan**

Typical plan is a projected income and expense statement listing all anticipated cash flows for a typical 12-month production cycle; including all farm and nonfarm income and all expenses (including debt service) to be incurred by the borrower during such period.

Typical Cash Flow Budget

A typical cash flow budget is a cash flow budget that reflects the cash inflows and outflows the operation will likely incur during a normal production cycle.

Unaccounted for Security

Unaccounted for security is items, as indicated on the lender's loan application, request for guarantee, or any interim agreements provided to the Agency, that are security for the guaranteed loan that were misplaced, stolen, sold, or otherwise missing, where replacement security was not obtained or the proceeds from their sale have not been applied to the loan.

***--Unequal Installment**

An unequal installment is any scheduled payment on an account that has been formally arranged with decreasing, increasing, or irregular sum payments during the term of the loan.--*

U.S. Non-Citizen National

A U.S. non-citizen national is a person born in America Samoa or Swains Island on or after the date the U.S. acquired America Samoa or Swains Island, or a person whose parents are U.S. non-citizen nationals. Typical evidence of the relatively uncommon status as a non-citizen national includes a birth certificate or passport with a document bearing a photograph of the person.

Undertaking

Undertaking means any project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a Federal agency, including those:

- carried out by or for the Agency
- carried out with Federal financial assistance
- requiring a Federal permit, license, or approval
- subject to State or local regulation administered pursuant to a delegation or approval of a Federal agency.

Definitions of Terms Used in This Handbook (Continued)

Veteran

A veteran is any person who served in the military, naval, or air service during any war as defined in 38 U.S.C. 101(12).



Comparison Guide for Loss Claim Decisions and Appeals

Subject	2-FLP	2004 CFR	FmHA Instructions 1980-A and 1980-B
90-day interest accrual	Subparagraphs 355 E, 359 A, and 360 F	762.149(d)(2)	1980.146 (d)(1)(V), 1980.146 (e)(1), and 1980, Subpart A, Appendix B (D) (2)
Protecting loan collateral in bankruptcy, foreclosure, insolvency, or any other litigation	Subparagraphs 264 A, 341 A, and 360 F	762.142(a)(6), 762.148(a), and 762.149(h)(6)(i)	1980.130 (j) and 1980.144
Lender fails to contact borrower or takes no action to cure default	Subparagraphs 19 C and 360 F	762.103 and 762.149(h)(6)(i)	1980.145
Unauthorized release of security proceeds	Subparagraphs 19 C, 264 A, and 360 F	762.103, 762.142(a)(5), 762.142(b), and 762.149(h)(6)(ii)	1980.130 (k)
Failure to inspect collateral	Subparagraphs 19 C, 264 A, and 360 F	762.103, 762.142(a)(3) and (4), and 762.149(h)(6)(ii)	1980.130 (i)
Failure to verify ownership or possession of security	Subparagraphs 264 A and 360 F	762.142(a)(2) and 762.149(h)(6)(ii)	1980.130 (b) and 1980.130 (d)
Protective advances	Subparagraphs 359 E and 360 D	762.149(e)	1980.136
Fraud, misrepresentation, and negligent servicing	Subparagraphs 19 B, 19 C, and 360 F	762.103 and 762.149(i)(6)	1980.130

**Demand for Payment, Notice of Intent to Collect by Non-Centralized Administrative Offset,
Including Internal Administrative Offset, Centralized Offset, and Other Applicable Debt
Collection Methods**

Note: Exhibit 17 will be available in a fillable format at <http://intranet.fsa.usda.gov> under form name
"2-FLP Exhibit 17".

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United States Department of Agriculture					
Farm and Foreign Agricultural Services	Demand for Payment, Notice of Intent to Collect by Non-Centralized Administrative Offset, Including Internal Administrative Offset, Centralized Offset, and Other Applicable Debt Collection Methods				
Farm Service Agency					
[County Office Name]					
FSA Office [Any Town, ST XXXXX-XXXX]	Dear _____ :				
	This is to inform you that as a result of a final loss claim that the U.S. Department of Agriculture (USDA), Farm Service Agency (FSA) paid on your behalf, you now have a delinquent Federal debt.				
	The final loss claim is based on the following guaranteed loans: (Complete as necessary from Borrower Loan Records).				
	<table border="0"><tr><td><u>Date of Loan</u></td><td><u>Lender</u></td><td><u>Loan ID Number</u></td><td><u>Loan Amount</u></td></tr></table>	<u>Date of Loan</u>	<u>Lender</u>	<u>Loan ID Number</u>	<u>Loan Amount</u>
<u>Date of Loan</u>	<u>Lender</u>	<u>Loan ID Number</u>	<u>Loan Amount</u>		
	The amount of the final loss claim paid on your behalf which you owe is \$ <u>[Amount]</u> . Interest will accrue at the note rate of the guaranteed loan on the date the final loss claim was paid (<u>[Interest Rate]</u> %). The amount due will increase as interest accrues at the annual rate indicated.				
	FSA will continue to use:				
	<ul style="list-style-type: none">• Centralized offset from the U.S. Department of Treasury's Treasury Offset Program (TOP),• Non-centralized administrative offset between FSA and USDA payment authorizing agencies including, but not limited to, internal administrative offset (IAO) of payments made by FSA, and• The other debt collection actions described in this notice to collect the debt you owe FSA.				
	<small>The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, and marital or family status. (Not all prohibited bases apply to all programs). Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720- 2600 (voice and TDD). To file a complaint of discrimination, write USDA, Office of Civil Rights, Room 326-W, Whitten Building, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410 or call (202) 720-5964 (voice or TDD). USDA is an equal opportunity provider and employer.</small>				
					
	USDA is an Equal Opportunity Employer				

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***--Demand for Payment, Notice of Intent to Collect by Non-Centralized Administrative Offset, Including Internal Administrative Offset, Centralized Offset, and Other Applicable Debt Collection Methods (Continued)**

Demand for Payment

To avoid debt collection actions you must either comply with this demand for payment of your FSA debt or successfully dispute that debt (see instructions under Debtors' Rights, pages 3-4). To repay your debt, send a check or money order, for the full amount of the debt to [Insert Service Center Name and address].

Please include your account number on your payment. The payment must be received no later than [Date] to avoid non-centralized administrative offset. To avoid centralized offset and other debt collection actions, payment must be received no later than [Date] .

Debt Collection Actions

- If the delinquent debt is not paid in full, or
- Timely resolved by the actions explained in this notice,

then USDA agencies will be notified to collect the debt by non-centralized administrative offset. Treasury also will be notified to collect by centralized offset from the following Federal Government sources or other private payments due you, if applicable:

- TOP (To obtain income tax refunds, contract or vendor payments, certain Federal benefit payments, such as Social Security, other than Supplement Security Income, Railroad Retirement (other than tier 2), and Black Lung (part B) benefits and other Federal payments, including certain loans to you, that are not exempt from offset)
- Federal salary pay, including military pay (through Treasury's centralized computer matching program, not to exceed 15 percent of disposable pay)
- Federal retirement and disability pay, including military retirement pay (from the Office of Personnel Management, in most cases not to exceed 50 percent of the net annuity).

Ineligibility for Federal Assistance

If you do not resolve your delinquent Federal debt within the time frames provided in this notice, you will be ineligible to receive future Federal financial assistance including loans (except disaster loans), loan guarantees and loan insurance.

Disclosure

Your delinquent debt also will be disclosed to a commercial credit reporting bureau. To avoid this action you must either repay your debt immediately, propose an acceptable repayment agreement or request an appeal within the time frames provided in this notice.

Page 2 of 5

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***--Demand for Payment, Notice That Non-Centralized Administrative Offset, Including Internal Administrative Offset, Has Been Taken and Will Continue, and Intent to Collect by Centralized Offset and Other Applicable Debt Collection Methods (Continued)**

Ineligibility for Federal Assistance

If you do not resolve your delinquent Federal debt within the time frames provided in this notice, you will be ineligible to receive future Federal financial assistance including loans (except disaster loans), loan guarantees and loan insurance.

Disclosure

Your delinquent debt also will be disclosed to a commercial credit reporting bureau. To avoid this action you must either repay your debt immediately, propose an acceptable repayment agreement or request an appeal within the time frames provided in this notice.

Non-Centralized Administrative Offset

FSA intends to take any future payment that you are to receive from your participation in any USDA program or contract (this includes any FSA program or contract). The amount to be offset also will include any payments to other entities equal to your *pro rata* share in the entities if FSA has a legally enforceable right under state law or otherwise to pursue entity payments. We intend to begin administrative offset **31** calendar days after receipt of this notice, unless you resolve the debt with the options set out in this notice.

Centralized Offset

Your delinquent debt will be referred to Treasury for TOP and for centralized salary offset computer matching as required by the Debt Collection Improvement Act of 1996 (DCIA), 31 U.S.C. 3716; the Federal Claims Collection Standards, and Department of Treasury Regulations if the debt is not satisfied by non-centralized administrative offset of payments within USDA. Under DCIA, FSA debts over 180 days delinquent must be referred to Treasury for such collection.

Litigation

FSA intends to enforce collection by referring the debt to the Department of Justice to initiate litigation if you fail to pay or otherwise resolve the debt.

Debtors' Rights

You have the right to inspect and copy Agency records, to make other arrangements for repaying your debt and to request an appeal of this demand for payment to the National Appeals Division (NAD).

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Demand for Payment, Notice That Non-Centralized Administrative Offset, Including Internal Administrative Offset, Has Been Taken and Will Continue, and Intent to Collect by Centralized Offset and Other Applicable Debt Collection Methods (Continued)

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Access to Agency Records of the Debt

You may inspect and copy your Agency file regarding this debt by notifying your local servicing office indicated below in writing within **20 calendar days** from the date of receipt of this notice. In response, FSA will notify you regarding a time and place for your review. At your request, one copy of the documents regarding this debt will be provided at our expense.

Opportunity to Propose a Repayment Agreement

At any time within **20 calendar days** of the date of receipt of this notice, you may present a written agreement to repay the debt as an alternative non-centralized administrative offset. Your proposed repayment agreement must document your ability to pay the delinquent Federal debt within a short period of time. A written repayment plan for paying the delinquent Federal debt may be accepted by the Agency in lieu of collection of the debt through non-centralized administrative offset of payments you are to receive.

Right to Appeal to NAD

You have the right to appeal this demand for payment to NAD in accordance with regulations published at 7 C.F.R. part 11. The issues under appeal will be limited to the existence of the debt, and the amount of the debt. If you wish to appeal this demand for payment, your written request for appeal must be postmarked no later than **30 calendar days** from the date you received this notice. Send the request for appeal to the office of the Area Supervisor, National Appeals Division, [Insert NAD Address]
[NAD address continuation] .

The request for appeal must include a copy of this notice and a statement explaining why you think the demand for payment is incorrect. The request should also include your name, address, and phone number. NAD will advise you of the time and place of any hearing and of any procedural requirements. A copy of your request for appeal and any attachments should be sent to this office. When you request a NAD appeal, there will be an immediate stay of the non-centralized administrative offset and referral for centralized offset until the NAD reviewing official issues a final written decision.

Please do not delay action to pay your delinquent Federal debt or exercise the rights offered in this notice. Your delinquent Federal debt will have a negative impact on your ability to obtain other credit. No additional advance notice will be forthcoming before referral of your debt to Treasury for TOP. If a Federal income tax return is filed, and your spouse is not responsible for this debt, please contact your local IRS office before filing your return to learn how to protect your spouse's share of the refund.

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